

UK trade with developing countries after Brexit

What is the evidence base? Where are the research gaps?

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Executive summary

This paper was completed in Autumn 2016, and is therefore accurate as of October 2016. As a consequence, the analysis does not reflect any developments or policy announcements that have been made in the intervening period, although a few sentences of discussions of the consequences of remaining within a customs union with the European Union have been curtailed in the light of the UK government's current (June 2018) intention not to pursue that possibility.

Following withdrawal from the European Union, the United Kingdom (UK) will need to design its own trade policy and thus to face significant opportunities and potential threats for development. When the UK leaves the customs union, it will have the potential to change the policies that govern its trading relations with developing countries. This includes existing preferences given to the African, Caribbean and Pacific (ACP) countries under the Generalised System of Preferences (GSP) or the Economic Partnership Agreements (EPAs) as well as to bilateral development policies that are consistent with general EU obligations.

This paper identifies the policy issues (opportunities and risks) that this dramatic change will imply, to understand how the evidence maps onto these issues and to identify where there are significant evidence gaps. It is neither a policy document nor a systematic survey of the evidence but rather a scoping of the state of academic and policy-facing knowledge in ten areas that we believe should inform the crafting of UK trade and development policy. In combination, the evidence tends to point towards seeking greater trade openness in the UK economy while ensuring that trade-led development policies underscore a more progressive engagement with the developing world.

The ten areas are:

- Preferential market access
- Free trade areas (FTAs)
- Rules of origin (RoOs)
- Agriculture
- Trade defence instruments (TDIs)
- Trade facilitation
- Services
- Investment flows
- Aid for trade (A4T)
- Institutional design and coherence

Each section suggests that further research would be useful in designing a new development-friendly trade policy. Among the reasons for the lacunae we identify are that:

- current research is limited by the inadequacies of data or of events from which to derive evidence;
- separating the UK from the EU market creates a previously unknown circumstance in which a medium-sized country (UK) is geographically very close to a major block (EU), so that there is a trade-off between each having its 'ideal' policies and having the same policies in order to reduce transactions costs for developing country partners; and
- the nature of the optimal policies towards developing countries may vary with the (currently unknown) policy environment between the UK and the EU.

The appropriate approaches to researching the various questions differ widely. The range includes deep data-intensive econometric analysis, synthetic research from existing results, case study evidence of specific events or circumstances, *ex ante* simulation modelling of policy options and *ex ante* analysis of the structure of policy regimes. Some are amenable to fairly rapid desk research while others will require extensive exercises stretching over several years. Examples of the topics we identify as requiring attention are:

- examining the UK's trade under the current EU GSP and other schemes to inform the optimal product and geographical coverage of UK preferences;

- identifying whether any insistence by the UK on receiving reciprocal preferences from developing country partners will cause trade diversion;
- identifying development-critical products in UK agricultural trade and how these relate to UK agricultural policy in general;
- simulating different rules of origin for UK preferences;
- modelling different *de minimis* thresholds for tariff and VAT collection from developing country partners;
- examining service trade restrictions across the EU to identify where there is experience of more liberal regimes than the UK offers and calculating the effects of such regimes;
- examining the working and possible structure of investor-state dispute settlement schemes with a view to designing a suitable compromise between the interests represented in international investment;
- exploring the future institutional shape of relations with the ACP states and what Brexit means for the EPAs; and
- designing robust procedures by which governments can consult their private sectors about aid-for-trade needs.

Although we do not make policy recommendations here and have not surveyed the evidence in sufficient detail to do so, the analysis leans towards:

- developing a bespoke system of preferences that draws lessons from, but in key areas departs from, existing EU practice;
- reviewing the practice of seeking reciprocal preferences for UK exports in developing countries, although not of encouraging developing countries to liberalise their trading regimes;
- relaxing the rules of origin applied for developing country exports seeking preferential access to the UK market;
- reducing the use of trade defence instruments;
- pursuing significant liberalisation of services trade both into and out of the UK;
- pursuing a trade facilitation programme in the UK to ease the flow of developing countries products into the UK, including increasing the *de minimis* value above which tariffs are applied and exempting LDC exports from VAT payments; and
- designing an institutional architecture that enhances the coherence between UK trade and development policies.

List of abbreviations and acronyms

A4T	Aid for Trade
ACP	African, Caribbean and Pacific States
AD/CVD	Anti dumping / Countervailing Duties
AGOA	African Growth and Opportunity Act (A US Trade Act)
ASEAN	Association of Southeast Asian Nations
AVE	Ad Valorem Equivalents
B2C	Business to Consumer
BIT	Bilateral Investment Treaty
BPO	Business Process Outsourcing
CAP	Common Agricultural Policy (EU)
CARIFORUM	The Caribbean Forum - a subgroup of the African, Caribbean and Pacific Group
CGE	Computable General Equilibrium
CU	Customs Union
DFQF	Duty Free, Quota Free
DG	Directorate General
EAC	East African Community
EBA	Everything But Arms
EC	European Commission
EDF	European Development Fund
EEC	European Economic Community
EIB	European Investment Bank
EIF	Enhanced Integrated Framework
ENP	European Neighbourhood
EPA	Economic Partnership Agreements
EU	European Union
EUMS	European Union Member States
FAO	Food and Agriculture Organization
FDI	Foreign Direct Investment
FTA	Free Trade Area
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GMO	Genetically modified organism
GSP	Generalised Scheme of Preferences
GSP+	Generalised Scheme of Preferences plus additional incentives to developing countries already benefitting from GSP
HS Code	Harmonised System Code (for trade tariffs)
ICSID	International Centre for Settlement of Investment Disputes
ICT	Information and Communications Technology
ILO	International Labour Organization
IMF	International Monetary Fund
ITC	International Trade Centre
ITU	International Telecommunication Union
LDC	Least developed country

LIC	Low Income Country
LMIC	Low and middle income countries
LPI	Logistics Performance Indicators
MAI	Multilateral investment agreement
MFN	Most Favoured Nation
MP	Mediterranean partner
NAFTA	North American Free Trade Agreement
nec	not elsewhere classified
NTM	Non-tariff measure
ODI	Overseas Development Institute
OECD	Organisation for Economic Co-operation and Development
OIE	World Organisation for Animal Health
ONS	Office for National Statistics
PCD	Policy Coherence for Development
PTA	Preferential Trade Agreement
RoO	Rules of Origin
RTA	Regional Trading Arrangement
SAARC	South Asian Association for Regional Cooperation
SME	Small and Medium Enterprise
SPS	Sanitary and Phytosanitary
STRI	Service Trade Restrictiveness Index
TDI	Trade Defence Instruments
TF	Trade Facilitation
TFA	Trade Facilitation Agreement (WTO)
TFSP	Trade Facilitation Support Programme
TiSA	Trade in Services Agreement
TRIMs	Agreement on Trade Related Investment Measures
TRTA	Trade related technical assistance
TTB	Temporary Trade Barrier
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development (UNCTAD)
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organisation
US	United States
USA	United States of America
USTR	United States Trade Representative
VAT	Value Added Tax
WB	World Bank
WCO	World Customs Organization
WEF	World Economic Forum
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organisation

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1 Introduction

- 1.1 This paper offers a high level overview of the state of academic and policy-facing knowledge on trade and development policy in ten areas:
 - Preferential market access
 - Free trade areas (FTAs)
 - Rules of origin (RoOs)
 - Agriculture
 - Trade defence instruments (TDIs)
 - Trade facilitation
 - Services
 - Investment flows
 - Aid for trade (A4T)
 - Institutional design and coherence
- 1.2 Its purpose is to inform the development of policies governing trade between the UK and developing countries in a post-Brexit era. Currently, membership of the EU Customs Union binds the UK to the preferences given to the African, Caribbean and Pacific (ACP) countries under the Economic Partnership Agreements (EPAs) and ensure that its bilateral development policies would have to be consistent with general EU obligations.
- 1.3 When leaving the customs union, the UK will have exclusive competence in setting its trade and development policy. While that policy will inevitably take forward—in the initial phase at least— aspects of EU policy, the longer term presents an opportunity to craft a trade-led development policy that draws on best practice and cutting edge thinking in the field. That said, it is worth bearing in mind that EU development policy evolved, in part, to take account of the UK’s relationship with its former colonies after it joined the European Economic Community (EEC). Leaving the EU will inevitably raise a question mark over the continuation of the Union’s relationship with former UK colonies. We do not address what shape either the EU or the UK’s relationship with these countries will take after Brexit but there is clearly an urgent need to undertake further research in this area.
- 1.4 Mindful that neither the extent of the UK’s capacity to set trade and development policy nor the status of relations with its former colonies has yet been resolved, this paper: examines how trade is currently governed under existing EU arrangements in the ten areas set out above; outlines current thinking in academic and policy-facing literatures; identifies those areas wherein a consensus on best practice has emerged; and highlights those areas in which further research is required. Each section sketches the current EU policy regime, discusses the issues we see as influencing the development of an optimal UK-specific policy, identifies some of the evidence in those areas and concludes with a suggestion for future research needs. The paper begins with a brief overview of how trade between the UK and developing countries is currently governed.
- 1.5 The appropriate approaches to researching the various trade policy questions differ widely. In what follows we identify five broad types of research approach, although the distinction is far from clean and clear-cut:
 - deep data-intensive econometric analysis, in which uses data from the past to identify important relationships between key variables, often using quite sophisticated estimation methods; The challenges include that data are often not up to the tasks set for them and sorting out which of many explanations actually accounts for what we observe (referred to below as ‘Ectic’);
 - synthetic research from existing results, which distils the results from past research with a view to identifying universal or near-universal conclusions and exploring the reasons why studies differ in

their conclusions. These include various sorts of surveys of the literature and, in many disciplines, meta-studies in which past studies are explored statistically – essentially pooling their samples into what is effectively a large combined sample. This last approach is less common in macro-economics because different results are often based on the same (or very similar) sets of non-experimental and non-sampling data, with differences explained by differences between analytical frameworks and auxiliary hypotheses (referred to below as ‘Synth’);

- case study evidence of specific events or circumstances, sometimes with careful analysis including the specification of counter-factual scenarios and sometimes with less formal quantitative or non-quantitative approaches. Case-studies allow much deeper analysis of the case in hand, which is often extremely helpful in understanding the processes in play, but they always face the challenge of ‘external validity’ – what do they show that applied more broadly than just to the case in hand (referred to below as ‘Case’);
- *ex ante* simulation modelling of policy options, which involves numerical simulation of policy changes. The approach is powerful in terms of defining a clear counterfactual and imposing tight constraints on the internal logic and consistency of the exercise. However, it faces the concerns that simulation models can never be tested very thoroughly against actual outcomes and that simulations have to be conducted on the basis of assumptions about many things and these cannot always be shown *a priori* to be a good fit with the policy question being posed. For prospective changes in policy, *ex ante* simulation is more or less the only means we have of generating numerical estimates (referred to below as ‘Simul’); and
- *ex ante* analysis of the structure of policy regimes, which typically relies on the *a priori* analysis of the incentives and institutions surrounding a particular policy. It will frequently require relatively small amounts of data on past experience, results from the literature and simulation modelling (referred to below as ‘Struct’).

Some questions and approaches are amenable to fairly rapid desk research while others will require extensive exercises stretching over several years.

- 1.6 In the sections below we have labelled our main ideas for future research with these ‘type-labels’. These are intended to suggest possibilities and to be illustrative, not to preclude work that does not fall neatly under the labels we have appended.

2 EU rules governing trade with developing countries

- 2.1 Existing EU rules governing trade with developing countries fall into two categories:¹ (i) those rules that relate to trade with countries that were former colonies of EU member states; and (ii) those rules that deal with trade with other developing countries. Those countries that were former colonies enjoy a level of preferential access into the European Single Market over and above that which is offered to their non-former colony counterparts. Contemporarily, this is largely because of differences in the rules of origin (RoO) that govern trade between the two groups (Bartels, 2007a), although established trading relationships also act to facilitate commerce (Commonwealth Secretariat, 2015).
- 2.2 Historically, the former colonies of the EU member states have enjoyed longstanding market access and preference arrangements at levels often far above their non-former colony counterparts. Brexit offers an opportunity to equalise the level of preferential treatment and market access provision of the UK vis-à-vis developing countries. It nonetheless remains the case the current EU provisions for the former colonies of member states evolved—from 1973 onwards—in good measure to take account of the UK desire to maintain a preferential trade-focused development relationship with its former colonies. Exiting from the EU may well throw the preferential access that these countries enjoy into jeopardy, which will sharpen calls from Commonwealth countries for a superior arrangement than that which is offered to developing countries more generally. We have not discussed this explicitly below, but it may well be an area that the UK government will wish to investigate.
- 2.3 Facilitating trade-led development for its former colonies has been a foundational component of the European integration project since the EEC was first established. The 1957 Treaty of Rome created an association between the original six members of the EEC and the—at the time—current and former colonies of France, Belgium, Italy and the Netherlands intended to promote social and economic development through trade-led growth. This subsequently evolved in scope and substance and it is the development of this cornerstone of the European integration project that EU rules governing trade with developing countries emerged.
- 2.4 This preferential trade and development relationship began under Part IV of the Treaty of Rome. Under Part IV (Articles 131-136), developing countries were extended the same commercial treatment as were members of the EEC. Likewise, opportunities to tender for EEC investment funds were opened up on an equal basis. And firms from the former colonies were to be treated in a non-discriminatory fashion. Imports from the developing countries entering into the EEC benefitted from progressive liberalisation with a commitment to an end goal of duty-free entry. This was not a reciprocal requirement as the associated states were permitted to levy customs duties that aimed to facilitate the development of domestic industries and/or were for fiscal purposes, with the caveat that once erected these would be progressively reduced (Article 133).
- 2.5 The association agreement under Part IV lasted until 1963 when it was replaced by the Yaoundé Convention (of which there were two iterations—Yaoundé I in force 1964-1969; Yaoundé II in force 1971-1975). Yaoundé changed very little of the substance of the relationship between the EEC and the associated states, most of which had now become independent, although it did lead to a slight expansion in their number. Notably, however, the EEC also negotiated the Arusha Agreement with three former British colonies: Kenya, Tanzania and Uganda. From 1975 EEC development policy changed dramatically. While core features of the preceding arrangements were carried forward, the accession of the UK, and the bringing together of the Yaoundé and Arusha agreements expanded the number of developing states that were recipients of EEC preferential arrangements from 19 to 46.

¹ Indicative literature on EU development policy can be found in Bartels, 2007a; Asante, 1981; Moss and Ravenhill, 1982; Cosgrove-Twitchett, 1978; Arts, 2003; Langan, 2016; Price, 2016.

- 2.6 In 1975 the Lomé Convention was agreed (entering into force in 1976) between an expanded EEC (to include the UK, Ireland and Denmark) and the African, Caribbean and Pacific (ACP) states (numbering 46 at the outset but now comprising 79).² The Convention extended significantly—in geographical scope as well as in substance—trade and aid relations between the EEC and the ACP. This arrangement was refined and extended again under three further iterations of the Lomé Convention and was replaced by the Cotonou Agreement in 2000. Crucially, whereas under association and the Yaoundé and Arusha conventions market access between the EEC and the ACP had been reciprocal, under the Lomé Convention and the Cotonou Agreement trade preferences were granted on a non-reciprocal basis. Under each of these subsequent regimes, ACP products entered the European market either on a duty free basis or else were the beneficiaries of quota arrangements that acted to divert goods from third party developing countries.
- 2.7 Following the Uruguay Round's Understanding on the Interpretation of Article XXIV of the GATT, which deals with preferences, it was argued that unilateral preferences granted to subsets of developing countries were no longer acceptable. The EC, as it had become, sought a waiver to permit it to allow the continuation of Lomé-type arrangements, but it was rejected in the WTO. The on-going and long-running dispute between the EU and Latin American banana producers (urged on by the USA) led the latter group to oppose the waiver and so the EC turned back to reciprocal preferences between itself and the ACP states. It decided as well that these should be concluded between the EC and regional blocks of ACP countries, which complicated the negotiations immensely. Thus were born the Economic Partnership Agreements (EPAs). A lack of clarity about whether the EPAs were trade or development focussed, developing countries' resistance to liberalising their trade, the sheer complexity of the deep agreements that the EC sought and the improvements in the unilateral preferences that Europe granted to Least Developed Countries (LDCs)—see next but one paragraph—combined to bog negotiations down completely. Hence, 18 years after they were initiated, only one EPA has been signed and implemented, and although some others are now signed, they are modest in their ambition.
- 2.8 Beyond the formalised arrangements with EU member states' former colonies, trade with third party developing states are governed by a Generalised System of Preferences (GSP and GSP+ regime), which also comprises the Everything But Arms (EBA) initiative.³ The GSP initially offered all developing countries (a self-declared status in the WTO) non-reciprocal preferential access to developed country markets (including the EU's) but subject to a number of limitations, which reduced their commercial value. GSP+ offered deeper preferences for selected countries that were willing to adopt international conventions on human and labour rights. A reform of the GSP in 2014 reduced the geographical coverage of the GSP but improved its degree of preference.
- 2.9 Since 2001 the EBA initiative has granted all LDC products free entry into the European market with the exception of armaments. With the exception of sugar—which has seen imports into the EU rise in accordance with a gradually increasing quota escalator—the effect of the EBA initiative on LDC trade has been underwhelming. This is largely because of the limited capacity of these countries to take advantage of the preferences accorded to them and because of rules of origin that are overly restrictive and act as an inhibitor to LDCs seeking to source their inputs from lower cost areas outside their national boundaries. That said, the EBA initiative has had an impact elsewhere, notably on accelerating reform of the EU's Common Agricultural Policy (CAP) (see Faber and Orbie, 2009).
- 2.10 As EU development policy has evolved, three imperatives have emerged which the UK government may wish to carry forward. First, developing countries should not be treated as a homogenous bloc but rather policies should be attuned to their particular economic and social

2 Comprising 48 African, 16 Caribbean and 15 Pacific states. Note that the original six members of the EEC would not permit the large countries of South Asia to come under the umbrella of their preferences, even though the latter were former UK colonies.

3 For discussion see Bartels, 2007b; Siles-Brügge, 2014; Young and Peterson, 2013; Gradeva and Martinez-Zarzoso, 2016; Faber and Orbie, 2009.

needs. Second, all arrangements need to be compliant with WTO rules. Third, nevertheless the development of some states is contingent on the manner in which they transition away from an historical reliance upon and attachment to EU (and other) preferences, which ought to be borne in mind when formulating policy.

- 2.11 Each of the sections that follow offers a high level view of the state of scholarly and policy-facing wisdom in one of the ten target areas that relate to specific policies involved in governing trade relations with developing countries. Each section sets out in more detail current arrangements governing relations with developing countries, highlights those areas wherein best practice adjustments can be made, identifies where UK policy could add value, and highlights areas where more research is needed before informed judgements can be made.

3 Developing Countries' Access to the UK after Brexit

Current EU Preferences for developing country exports

The provisions of the EU's Generalised System of Preferences govern the UK's current arrangements for unilateral preferences in trade relationships with 92 developing countries (see Annex 1, correct as of October 2016) comprising:

- 30 under the EU standard GSP terms;
- 13 countries under GSP+ terms; and
- 49 LDC under the terms of the Everything but Arms (EBA) agreement

In principle these trade arrangements are solely in the gift of the EU in the context of the Common External Tariff. After Brexit, responsibility for any British version of the GSP will lie with the UK government.

- 3.1 The terms of the EU Scheme were last revised and brought into operation on 1 January 2014 when a number of countries (notably China) were graduated out of eligibility - that is, they were seen to have reached a point beyond which non reciprocal preferences were no longer required. At the same time, preferences for specific products from specific countries were also changed or withdrawn, based on competitiveness criteria, which state that once an exporting country's share of EU total imports in any affected tariff heading exceeded 14.5% (textiles) and 17.5% (all other goods), it loses eligibility in that product.
- 3.2 It is a question for the UK whether, after leaving the EU, it wishes to continue broadly with the current specifics of the EU scheme but calibrated to UK trade with GSP beneficiaries. In time, the British government may wish to undertake a comprehensive assessment of the performance of the EU Scheme, notably as it affected UK GSP beneficiary trade in the period after the 2014 revision to the EU scheme, and compare it with GSP and schemes of comparable effect as applied by other developed countries. The changes could encompass the membership; the products in receipt of preferences; the degree of preference for LDC and other classes of developing countries; non trade commitments under GSP+ and customs procedures (notably Rules of Origin (RoO)).
- 3.3 There is an extensive literature on the impact of the GSP as deployed by the main schemes implemented since the early 1970s but with a focus on the EU (and before it the EEC and the EC—see, Sapir, 1981) and the USA (Sapir and Lundberg, 1984) stretching in the EU case to Gasiorrek et al (2010), Hvid Thelle (2015) and Cirera, Foliano and Gasiorrek (2016). A common theme of the studies was whether there was any evidence of consequent export growth among GSP beneficiaries. This has typically been pursued in the context of econometric methods using increasingly disaggregated estimates at the country and product level in a gravity modelling context. In general, the more disaggregated the data, the less direct evidence there is of higher than expected trade volumes for particular country/product pairs (see Cirera et al, 2016). Both Gasiorrek (2016) and Cirera (2016) draw on the data provided by the European Commission which detailed confidential trade data at 10-digit product classification for each GSP beneficiary showing how much entered the EU under each possible tariff scheme (EBA, GSP, GSP+, MFN or other preference e.g. bilateral).
- 3.4 Gasiorrek et al (2010) was designed to help the EU Commission prepare the reform of the EU GSP that was implemented in January 2014 and is still currently in operation. It covers 92 countries

(compared with 176 between 2004 and 2013).⁴ As a result it is of special relevance to the trade policy choices facing the UK. The approaches included, as well as Gravity and computable general equilibrium (CGE) modelling, the use of descriptive statistics and econometric analysis to illuminate the utilisation of preferences by country and the preference margins implied by the preferences granted to EBA, GSP and GSP+ beneficiaries.

- 3.5 Two features set Gasiorek et al (2010) apart from the general literature on the effects of the GSP. First and most importantly is access to an EU trade data set that specified at 10-digit product code level trade flows from GSP, GSP+ and EBA beneficiaries analysed by which trade regime the goods entered the EU. This made clear the functioning of the GSP system in unprecedented detail. The data set was and remains confidential. Second is the width of the analytical pallet covering descriptive statistics, econometrics, CGE modelling and qualitative analysis drawing on case studies, which in essence was demanded by the needs of the European Commission. The key results include:

3.5.1 From the descriptive analysis:

- increasing preference erosion between 1990 and 2008 for which either the most favoured nation (MFN) tariff was zero driven by an increasing number of tariff lines or, the product was included in EU bilateral FTAs
- for the EBA countries most competitive pressure comes from GSP and MFN suppliers; for GSP countries most competitive pressure comes from MFN suppliers while for GSP+ countries the pressure comes from GSP suppliers. This suggests that any increase in preferences for GSP suppliers will have negative effects on EBA and GSP+ countries.
- evidence is scarce that GSP schemes have encouraged export diversification
- there are only weak correlations between development indicators and the preference margin or preference utilisation
- EBA countries stand to gain from the graduation of other beneficiaries (which suggests that the 2014 graduation of China and Latin American countries should boost EBA export flows to the EU).

3.5.2 From econometric analysis:

- utilisation rates of preferences are typically high and positively related to the size of the preference margin. Rules of origin seem to have little effect on utilisation
- rents from preferences seem to be equally shared between importers and GSP beneficiaries
- aggregate gravity modelling suggests that the growth in trade and FDI has been positively related to receipt of GSP preferences.
- sectoral gravity modelling for six sectors (vegetables, prepared foods, footwear, textiles clothing, machinery) shows that the benefits of preferences are concentrated, which results in a more variable picture on the relationship between preferences and trade growth
- bilateral gravity modelling suggests that it was EU FTAs rather than any of the GSP that had an effect on the growth of trade with the EU, which may reflect selectivity or that it is the other parts of FTAs that stimulate export supply.

Aside from the positive impact on trade growth signalled above, other results of interest from the CGE modelling include:

- only small benefits on economic welfare for GSP beneficiaries
- Cambodia and Bangladesh benefit the most, while EBA sub Saharan African countries gain little.

⁴There is a DG trade call for tender currently under consideration for an equivalent study for the period since 2014. That suggests that there may be a study covering the same area as Gasiorek 2010 available in mid to late 2017

3.5.3 Qualitative analysis of the impact of GSP+ includes judgements that:

- GSP + has been effective in promoting the ratification of the required 27 international conventions
 - But GSP+ does not improve implementation of the conventions
 - costs of implementation are a factor, which suggests that aid might be necessary.
- 3.6 While there are general lessons to be drawn from EU and other countries' experience, the designers of any future UK GSP will need to commission research on UK-specific issues such as:
- the impact of the existing EU GSP on participating developing countries' trade with the UK
 - whether the GSP beneficiaries utilise the preferences to the full extent in trade with the UK
 - whether preference margins in the UK market are likely to be eroded by reductions in applied MFN tariffs or by the granting of preferences to new partners as the new British Trade policy develops
 - Whether the EU Scheme encouraged export diversification or instead exports of traditional products in the context of UK trade with GSP beneficiaries (the degree to which any increase in trade was at the intensive or extensive margins)
 - whether preferences encourage UK FDI flows to the GSP partners.

Summary of research opportunities

- the creation of a research effort on the specific impact of the existing EU GSP terms on UK imports from and UK investment to each category of GSP preferences (standard, GSP+ and EBA) (Ectic, Case)
- a key issue for research in this area is the quality of UK data on trade with the beneficiaries of GSP preferences
- a necessary precursor to research in support of the design of any British GSP is early exploration with the Office of National Statistics (ONS) of the availability of UK data on trade flows by GSP country of origin and by the preference system the goods entered under, all for each 10-digit tariff line.

4. Free Trade Areas (FTAs)

Existing Reciprocal Trade Agreements between the EU and developing countries (correct as at October 2016):

- **Economic Partnership Agreements (EPAs) (including Interim)** Cameroon, CARIFORUM States, Ivory Coast, {Madagascar, Mauritius, the Seychelles, and Zimbabwe} and {Papua New Guinea and Fiji}; **awaiting implementation** East African Countries (EAC), Southern African Development Community (SADC) and West Africa. No agreement has been reached with Central Africa or the Pacific region in general.
- **Mediterranean Association Agreements** with Algeria, Egypt, Israel, Jordan, Lebanon (Interim), Morocco, Palestinian Authority and Tunisia.
- **Other Trade Agreements (including Interim)** Chile, {Colombia and Peru}, Mexico, South Africa;
- **Awaiting implementation** Ecuador and Vietnam

These agreements are largely restricted to goods and frequently have very little and/or very delayed trade liberalisation by the developing partner.

FTAs with the ACP countries

4.1 The Economic Partnership Agreements (EPAs) are the heart of the EU's relationship with the African, Caribbean and Pacific States (ACP). They have elicited a huge amount of comment and *ex ante* analysis but more or less no *ex post* evaluation because they have yet to be effectively implemented. On the side of ACP exports, the EPAs basically extend the liberal access to the EU market embodied in the Lomé and Cotonou Conventions and are therefore best thought of as an aspect of the unilateral preferences discussed above. The EPAs bring four further dimensions which future UK policy should consider:

1. The reciprocal preferences which EU exports are accorded in ACP markets;
2. The fact that EPAs were negotiated with regional groups of ACP countries;
3. The extension of the trade agreement to standards and, in some EPAs, services;
4. The attempt to use EPAs to improve governance in ACP countries through joint institutions and being 'drivers of change that will help kick-start reform and contribute to good economic governance'.⁵

4.2 None of these items boasts much of an evidence base. There are, to our knowledge, no *ex post* studies of item (1) for Low Income Countries (LICs)⁶; studies of EU agreements with other neighbourhood countries offer some information - see below - but even here, as Peridy and Roux (2012) note 'the slow path at which tariffs are removed in [most Mediterranean Partner (MP)] countries leads to a limited preference margin for EU imports in MP country markets'. The evaluation of the Caribbean EPA, EC (2014), finds no persuasive evidence of an effect on Caribbean imports, but recognises that implementation has not yet tackled the serious tariff barriers and that the situation is confounded by many other changes to trading conditions. *Ex ante*, the EU shares of EPA group imports and the latter's relatively high tariffs—see, for example, Fontagne, Mitaritonna and Laborde (2008)—at least raise the prospect of trade diversion. As more ACP countries implement tariff reductions provisionally there may be scope for future investigation here. The slight and slow liberalisation of developing partners' imports found in these agreements,

⁵ http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index_en.htm

⁶ 'Low income' - a world Bank classification based on income. It includes the least developed countries (LDCs), but many more as well.

coupled with sometimes weak implementation of what was agreed, speak to the general reluctance of the southern partners to liberalise their trade. This might suggest that the UK should not seek such liberalisation from its partners, but both economic theory and experience suggest that delaying liberalisation may delay necessary structural transformations.

- 4.3 Working with regional groups of developing countries has clearly complicated the process of concluding the EPAs. Substantively objectives differ between group members—most obvious are the differences between the LDC members, who receive EBA and hence see little virtue in ‘paying for’ enhanced access to the EU, and the non-LDCs which face a decline in market access if they do not ‘pay’. Even between non-LDCs differences are evident—as, for example, in CARIFORUM (EC, 2014). Organisationally the burden of setting up regional processes has created costs and it appears that where the regional organisation and the desire for regional integration already existed—e.g. EAC and CARIFORUM—the process has been smoother. What appears not to exist, however, is serious comparison with a counter-factual in which the EU negotiated with 38 non-LDC countries individually (there are 79 ACPs of which 41 are LDCs), resulting potentially in 38 different tariff regimes for importers and exporters and possibly less regional integration within the ACP regional groups.
- 4.4 In a different dimension, McPhee and Sattayanuwat (2014) suggest that regional trading arrangements (RTAs) between developing countries are far from universally successful. Of their sample of twelve, they found that ‘[s]everal RTAs fail to generate intrabloc trade creation. Seven of the 12 RTAs generate import trade diversion’, with the differences being due to implementation. Thus encouraging such RTAs may not even be development-friendly.
- 4.5 On governance there have been extensive interactions between the EU and the ACP governments and institutions but little evidence that these have fostered institutional development. For example, EC (2014) on the most complete EPA to date (with CARIFORUM) makes no such claim. To the extent that EPAs or similar arrangements create a deeper relationship between the donor and recipient they may provide a useful medium through which to offer aid-for-trade targeted at the areas which are to be liberalised in the trade agreement—including services. However, the EU has not really exploited this route effectively and the UK operating alone will have substantially less leverage with which to achieve such general trading objectives. This weaker leverage could also affect the ability to persuade developing country partners to implement and enforce the agreements they make. This is a frequently noted challenge and one which arguably detracts from the value of FTAs; the EU has not been good at it (unlike the USA, which appears to be more ‘muscular’ with its partners) and it is not clear whether the UK will be able or willing to do better, see Hoekman (2011). Research on implementation and enforcement issues may well be useful in making UK FTAs more development-effective.

FTAs beyond the ACP

- 4.6 The EU has FTAs with several developing countries particularly in the Mediterranean neighbourhood, but also further afield such as with Mexico, Chile and South Africa. There are several assessments of the overall trade effects of these arrangements using different methods and their results are mixed. In many cases the effects on the developing partner’s exports to the EU are muted because the partners had favoured access to the EU via GSP prior to the FTA. The effects on EU exports are generally larger, but at least in some applications restricted by the fact that the partners had not, at the time that the studies were conducted, significantly liberalised. For example, the gravity exercises of Bergstrand et al (2011) and Parra Robles (2012) suggest positive effects on EU exports, but the matching exercise of the former and the survey of Peridy and Roux (2012) do not generally find significant effects. None of these studies considers whether the increases in EU exports are trade creation or trade diversion, but given the lack of overlap between the production bundles of the EU and the developing partners, trade diversion is a serious possibility.

- 4.7 NAFTA is the most studied North-South FTA. Hillberry and McDaniel (2002) report that US exports to Mexico grew by 93% over 1993-2001 compared to 20% with non-NAFTA countries and that US imports from Mexico (Mexican exports) grew by 190% compared with 59%. However, whether this is all a result of NAFTA as opposed to the gradual process of opening that Mexico was undertaking over this period is not discussed. In terms of general effects, Villarreal and Fergusson's (2014) find that '[m]ost post-NAFTA studies on economic effects have found that the net overall effects on the Mexican economy tended to be positive but modest.' Given the USA's size and Mexico's geographical and economic proximity to the USA, NAFTA is probably the upper bound for the likely effects of UK-developing country FTAs.
- 4.8 Below we consider whether trade agreements are an effective means to boost services trade and investment, but only after we have considered those issues per se.
- 4.9 In terms of research the burden of this section is that FTAs appear to boost trade to some extent and that this is likely to be welfare enhancing. However, the link is far from automatic or guaranteed and hence there is a good deal of scope for research to try to guide the new UK trade policy towards developing countries. There are, as noted, likely to be opportunities to study the effects of existing EU FTAs in more detail because more time will have elapsed since the initial studies were done. The fact that gravity model studies tend to find that FTAs increase partners' trade at least raises a concern about whether selectivity has been handled appropriately. However, it is not clear that this is easily solved in the current context. Just as important as the *ex post* studies will be need for serious *ex ante* analysis to extract lessons from EU experience for the UK acting alone and to tailor possible arrangements to developing partner needs (whether the partner recognises them or not!).

Summary of Research Opportunities

- Trade Diversion in southern FTA partners (Ectic, Synth).
- Trade-off between negotiating as a group vs alone for southern partners (Case, Struct)
- Trade and institutional effects of FTAs (including CARIFORUM EPA), given that we now have slightly longer periods since implementation than previous studies have had (Ectic, Synth, Struct)
- The future of the ACP grouping (Struct)

5 Rules of Origin (ROOs) and the value of preferences

Current practice with EU Rules of Origin

Rules of Origin (RoO) are a necessary element in preferential trade agreements to prevent trade deflection.

EU definitions of origin are constructed based on the following concepts;

1. wholly obtained in the sending country, most commonly used in the context of minerals and agricultural products;
2. change of HS(5) code, i.e. processing in sending country converts imported intermediates to a different HS code;
3. value measured as share of the total value of output at factory gate: this may be expressed as *either* the maximum foreign content *or* the minimum domestic content; and
4. by the application of a specific process to foreign inputs

These four definitions can be relaxed by the exporting country being allowed to count inputs from defined countries as domestic content. Thus the EU allows LDCs to count inputs from the EU, Norway, Switzerland and Turkey as domestic. This is known as bilateral cumulation. Other forms of cumulation are regional (e.g. Asian LDCs can cumulate inputs from other ASEAN GSP beneficiaries and SAARC members as local content) also inputs from other LDCs can count as domestic content—known as extended cumulation.

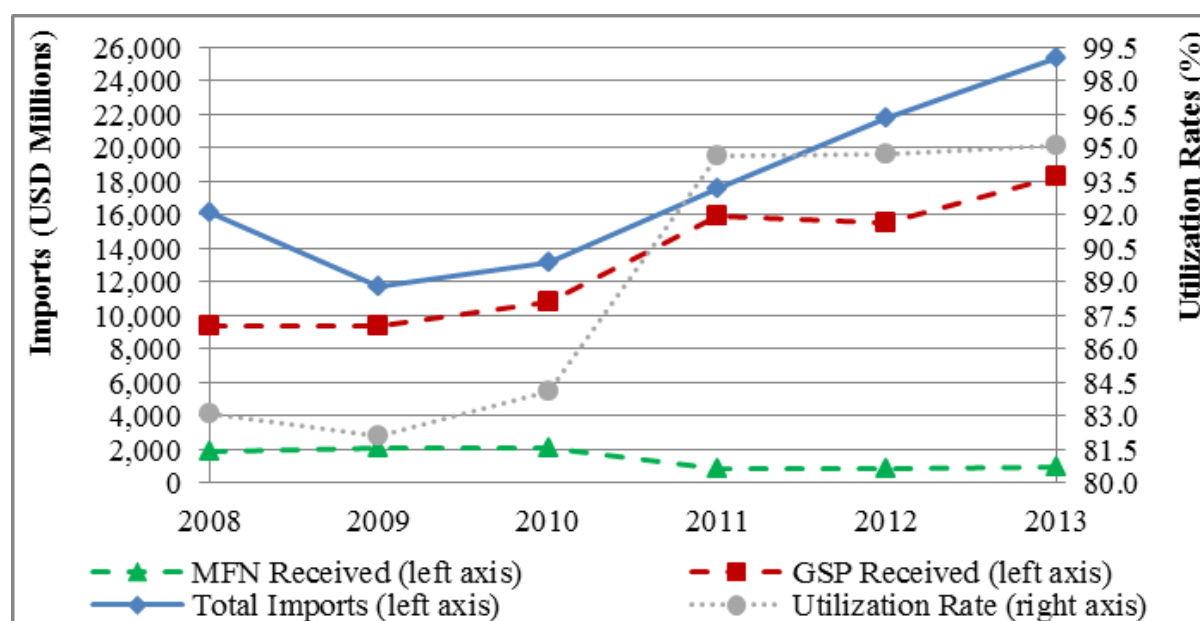
RoOs are also necessary for non-preferential trade, such as when applying AD/CVDs and determining country of origin for statistical purposes. The UK will have to define its regime for these as well but we do not cover the issue in this paper.

- 5.1 After Brexit the British government will take responsibility for the continuation of formerly EU GSP preferential agreements with 92 LDC and developing countries as well as bilateral or regional Economic Partnership Agreements signed by the EU with ACP member states (some of whom also qualify for GSP terms). Additionally, there are EU FTAs with middle income developing countries around the Mediterranean basin and in Asia and Eastern Europe. All of these require RoOs to ensure that goods entering the UK qualify for the agreed preference. These RoOs are complex, varied and costly to comply with—see Yi, 2015. The Guide to EU rules of origin attached to the EU GSP runs to 49 pages, (European Commission, 2016). Such complexity results in RoOs acting as non-tariff barriers with consequent negative effects on the utilisation of preferences, volumes of imports and on the formation of value chains.
- 5.2 Based on gravity modelling, Cadestin et al (2016) estimate that RoOs in Latin American preferential agreements have an *Ad Valorem* Equivalent of the order of 8-9 per cent, which is in excess of the average MFN tariff and in principle could wipe out the benefit of the preference. This is rather higher than Francois, Hoekman and Manchin (2006) calculate by seeking the threshold at which it is no longer worth a developing country exporter seeking to take advantage of a preference. Their exercise identifies the total (additional) cost involved in using the preference (i.e. not only RoOs) and they suggest that it is 4 per cent for manufactures and 15 per cent for agricultural products, although the latter is almost certainly not all because of RoOs *per se*.
- 5.3 Further evidence that RoOs discourage the utilisation of GSP preferences in the EU can be found in a document submitted by the LDC group of countries to the WTO committee on Rules of Origin (WTO 2014). From the beginning of 2011 the EU introduced a major revision of the RoOs

for imports under GSP rules. The key change was from origin being determined by a minimum local content rule of 60 per cent (dating from the 1970s) to it being determined by a maximum foreign content of 70 per cent. At a stroke the EU went from having one of the most restrictive RoOs among developed country GSP preferences (often compared unfavourably with AGOA rules and notably the US rule that allowed third country cloth to count as domestic) to among the most liberal

- 5.4 The results of this change on trade volumes and preference utilisation are shown in Figure 1 below taken from WTO (2014).

Figure 1 EU Imports from LDCs and Utilization Rates
Non-Agricultural Products excluding Fuels



Source: WTO (2014)

- 5.5 The Change in Utilization of GSP preferences is striking: first there is a doubling of total EU imports of Non-Agricultural products (excl Fuel) from LDCs from \$13billion in 2010 to \$26 billion by 2013. More striking still is the leap in utilisation of GSP preferences from 84 per cent in 2010 to 95 per cent of eligible imports in 2010 and subsequently. Whatever else the EU did by reforming the RoO regime for the GSP it clearly demonstrated that RoOs depressed trade quite severely: total imports from the LDCs in receipt of an EU preference doubled in three years when the RoOs were relaxed. There do not seem to be any attempts using either partial or general equilibrium to back an AVE for the EU system of RoOs out of these data either at product or country level.
- 5.6 Assuming that, on Brexit, the UK will effectively replicate the GSP trade rules it ‘inherits’ from its former membership of the EU there should be no immediate change in practice vis-à-vis direct imports from GSP, GSP+ and EBA members exporting to the UK. Issues might arise in context of GSP trade that either enters the UK from the EU, for example flowers from Ethiopia arriving via the Netherlands, or seeks to enter the EU 27 from the UK having entered the UK with a preference. Much will depend on the trade regime in place between the UK and the EU.
- 5.7 The further possible challenge to the UK approach to RoO might arise if the UK decides, as part of its objective of creating a ‘gold standard’ for global trade policy, to change the terms of its EBA arrangements, notably to bring it into line with the LDC members’ proposals in the WTO for more relaxed RoOs for LDCs, WTO (2014). This would entail a maximum foreign content of 75 per cent, a minimum domestic content of 15-25 per cent (to encourage value chain formation) and more room to choose the criterion on which to demonstrate origin. One, perhaps remote,

possibility is that in order to encourage FDI to LDCs, the UK might allow the LDCs effectively to abolish RoOs for purposes of trading with the UK by having a category of global cumulation'. This would effectively relax the origin criterion to a maximum of 100 per cent foreign content (with similar, if wider, effects to the relaxation of origin rules on imported cloth in AGOA). This might be compensation for the UK relaxing RoOs for all other categories of developing countries and hence eroding effective preferences to LDCs.

Summary of research opportunities

The above points towards:

- careful simulation of the implications of the UK grandfathering EU GSP rules under different scenarios for UK–EU trade relations as being the main gap. (Simul, Struct)
- As noted in the GSP section the key challenge may be creating a trade database by country, preference type and product at 10-digit HS for the UK.

EU Agricultural Trade Policy

When Britain entered the then EEC the consequent changes in agricultural policy were the most immediately radical and controversial of all those brought about by accession. Crudely the UK went from being a low food price country which subsidised production directly and traded at world prices, to one which protected heavily against non-EU producers at the frontier and used export subsidies to clear surpluses off the EU market. The result was that domestic agriculture production expanded, demand was compressed, imports from the rest of the EU increased (trade diversion—largely at the expense of temperate agricultural producers notably the US, Canada, Australia and New Zealand but also Argentina and other middle Latin American countries).

There are special EU quota arrangements to allow producers in Africa, the Caribbean and Pacific (ACP) states to continue to export cane sugar, beef and bananas to the UK and receive intra-EU prices for these products. The intention was that the quota rents should accrue to exporters to compensate for lost market share.

In the 43 intervening years, agriculture's contribution to UK GDP has shrunk to less than 0.7 per cent percent of GDP. There have been significant changes to the Common Agricultural Policy (CAP) since accession, driven at least in part by the Uruguay Round Agreement on Agriculture, the settlement of various agricultural disputes in the WTO (bananas, sugar) and latterly the agreement to abolish agricultural export subsidies in the Doha round. Overall:

- the emphasis in agricultural support in the EU has moved from market prices to support that is delinked from production, all of which is governed by WTO commitments on expenditure on trade distorting subsidies.
- the complex structure of EU trade preferences both reciprocal (bilateral and regional) and unilateral (GSP) means that many countries and most developing countries face no or only low tariff barriers to agricultural goods. The quota arrangements for sugar, beef and bananas have been swept up in preferences under either GSP or EPAs or other FTAs.
- The regimes for third country suppliers, however, are important in generating the preference margin for GSP and other developing countries with preferences. For example, on fresh bananas, Central American suppliers face specific tariffs of between €70 and €103 per tonne and on raw cane sugar tariffs on Australia, Brazil and Cuba are €98 per 100kg
- There is tariff escalation (e.g. for third countries without a preference, unroasted coffee faces no tariff but roasted and decaffeinated coffee faces a 9% tariff. Most developing countries with a preference avoid any tariff, but the 30 countries in receipt of a GSP preference under general arrangements will still pay a tariff of 3.10% on the more processed forms of coffee.
- Non-tariff barriers remain, most importantly sanitary and phytosanitary (SPS) barriers and Rules of Origin (though most agricultural products will come under the wholly obtained category so RoOs may not present a major problem).

The other more general point that remains for developing countries is that, despite the switch in policy away from purely production objectives, the EU still has relatively high trade barriers against important suppliers like the USA, Australia, Brazil which drives down world prices for many staple crops. This benefits consumers in developing countries that are net importers but damages producers in net exporting countries and moves the location of global production away from efficient suppliers and towards EU producers.

Despite the attempts by the EU to move the CAP away from financial support to specific products and towards paying farmers directly on the basis of the area farmed and subject to them following codes on animal welfare, environmental protection and social sustainability, the delinked payments still have the effect of retaining resources in agriculture and hence increasing production compared with a free trade / no financial support base line.

- 6.1 There is uncertainty about the options for UK agricultural policy after BREXIT. There seem to be two major issues at stake. First, there are voices calling for UK agricultural policy to be focussed on environmental rather than production objectives, see Helm 2016 for example. The proponents of this approach include the National Trust and the Royal Society for Protection of Birds who are, ironically, among the largest recipients of CAP direct payments in the UK. News reporting suggests that farmers in favour of leaving the EU disliked being seen as welfare recipients being paid not to produce, rather than as making a positive contribution to the economy by maximising production⁷.
- 6.2 A move to increase the weight of non-agricultural objectives for British policy would have a series of conflicting effects for developing countries. Such a shift could lead to:
- less UK production than now, reducing pressure on world markets and so helping net food exporters
 - however, the absence of the UK from the EU agriculture council might encourage a move in the opposite direction in the much larger EU27 market.
 - a reduction in UK expenditure in the WTO amber box helping to increase pressure for its abolition and stricter monitoring of the blue and green box subsidies⁸
 - some incentive for the UK to reduce trade barriers below current MFN bound levels. This, while good judged against global welfare, could lead to potential preference erosion in the UK market—and is already a major issue for recipients of EBA preferences in the EU market.
- 6.3 A more protectionist shift in the UK stance would have broadly opposite effects but it should be noted that EU applied MFN barriers are already at the bound level which leaves little room for the UK to raise MFN barriers once it has its own WTO Schedules, unless it initiates a specific re-negotiation. That would point to a production subsidy which would impact on the UK Amber box caps and maybe Treasury resistance.
- 6.4 Brexit could also impact on the management of food standards. Almost all of the work of the British Food Standards Agency is currently under directly applied EU law, which means that it is effectively harmonised with the rest of the EU⁹. This in turn means that exporters to the UK automatically comply with the law on food safety prevailing across the rest of the EU. That makes entry into the EU from the UK straight-forward and, for English speaking exporters, a lower cost option. After Brexit that may no longer be true unless the UK agrees to continue to apply all EU food standards law (without then having any say about what the standards are). There is also some risk of drift in UK standards away from EU norms, notably in the case of GMO and perhaps, if the USTR comes calling, some of the US practices that have not sat well in the EU (such as beef hormones and the chlorine washing of carcasses). The general point is that this would imply that if developing country exporters had a sizable market in the EU they should continue meet EU standards since these are less likely to break UK standards but the UK may not meet EU standards eg on GMO. A larger issue is that EU norms are also argued to be among the closest to international norms, so if the UK moved decisively away from EU norms it would be moving away from international norms and WTO best practice. To the extent that developing countries have invested to converge on international norms they would need to incur extra costs if they wanted to be consistent with and so trade with the UK.

7 Financial Times, August 7, 2016, British farmers prepare for end to direct subsidies after Brexit,

⁸ The WTO's Agreement on Agriculture recognises three groups of 'permissible' subsidies in agriculture. Those in the so-called Amber Box are permitted up to a maximum negotiated in the Uruguay Round; those in the Green Box are permitted because they are held not to distort production and those in the Blue Box are permitted because they are designed to limit production.

⁹ Directly applied law is where EU regulations automatically apply in the UK (become part of the body of UK law) without any further action in the UK.

Summary of research opportunities

- What primarily will be needed will be *ex ante* comparisons of a series of scenarios for the future shape of UK agricultural policy on a spectrum from
 - a) a policy largely aimed at subsidising UK public goods (largely environmental but also animal welfare) with lower and lower-than-current MFN protection at the frontier to
 - b) a diversion of current expenditure on subsidies to encouraging agricultural output and maintaining current MFN barriers and existing preferences at the UK frontier. (Case, Struct)
- As pointed out in the sections on GSP and RoOs, any assessment of the likely effects of Brexit in the agricultural trade area is less likely to call for new analytical techniques or theoretical insights than for easy access to UK trade data at the HS 10-digit data by country of origin by preference utilised.
- Separately, the development of UK policy on product standards will need to be monitored with a focus on potential impact on developing country trade. (Synth, Case, Struct)

7 Trade defence instruments (TDIs)

<p>Current EU Trade Defence Instruments in a nutshell</p> <p>EU TDIs take the following four forms:</p> <ul style="list-style-type: none"> • anti-dumping measures • countervailing measures • safeguard measures • measures taken under ‘Trade Barriers Regulation’
<p>Anti-dumping measures are actions sanctioned following an investigation designed to prevent imports being sold at prices below those of the home/originating market. These measures usually take the form of a duty and they are currently dealt with under Council Regulation No. 1225/2009 (30 November 2009) on the ‘protection against dumped imports from countries not members of the European Community’. Regulation No. 1225/2009 supersedes Council Regulation No. 384/96 (with subsequent amendments) of 22 December 1995. These measures are the most frequently invoked TDI by EU institutions and the most likely to be ‘transitioned across’ in form upon Brexit. Council Regulation No. 1225/2009 does not contain specific development provisions.</p>
<p>Countervailing measures are those actions taken to protect against subsidised imports that compete unfairly against home products. These measures usually take the form of a duty imposed on imports but can also include an undertaking by importing authorities to pursue corrective action. Countervailing measures are governed by Council Regulation No. 597/2009. Council Regulation No. 597/2009 comprises dedicated provisions relating to subsidised imports from developing countries considered to have a negligible impact on total imports of like products into the EU.</p>
<p>Safeguard measures are those actions taken to restrict temporarily imports to protect a domestic industry from foreign competition when faced with a sharp, unforeseen and sudden increase. They are governed by Council Regulations No. 260/2009 (against WTO members), 625/2009 (against non-WTO members), and 427/2003 (transitional safeguards for China). Safeguard measures are infrequently invoked trade defence instruments. Council Regulation No. 260/2009 exempts developing country members of the WTO from EU safeguard measures.</p>
<p>‘Trade Barrier Regulation’ is a legal procedure for investigating and taking action against discrimination faced by EU exports in foreign markets. This discrimination can take a range of forms including—but not limited to—restrictions on sales of EU goods in foreign markets, discriminatory forms of taxation, and patent and other regulatory regimes that do not apply to comparable domestically produce goods. It is governed by Council Regulation No. 3286/94. Like anti-dumping and countervailing measures Council Regulation No. 3286/94 does not contain specific development provisions.</p>

- 7.1 The issue of TDIs is likely to be vexed in the formulation of UK trade and development policy. TDIs are interventionist trade policy mechanisms that allow instigating countries, through the imposition of temporary trade barriers (ITBs), to combat what are perceived to be unfair forms of competition. These normally arise from:
- imports entering the domestic market at prices that do not reflect the true costs of production—that is, they are either being ‘dumped’ at prices below the cost of production or else they are benefiting from subsidies that enable them to be sold at reduce rates; and
 - undue protectionist measures facing domestic exports in overseas markets.
- 7.2 WTO rules set out what constitutes an ‘unfair trade’ practice and place limits on what is permissible in retaliation.¹⁰ The use of these devices is, nonetheless, subjective and susceptible to political

¹⁰ Anti-dumping is governed by the Agreement on the implementation of Article VI (Anti-Dumping) of the General Agreement on Tariffs and Trade 1994. Subsidies and countervailing measures are overseen by the

influence.¹¹ The result is that, while TDIs can be implemented as genuine measures to safeguard national trade interests, they have most often been observed as being used to gain unfair commercial advantages (Bown, 2009) and have been found to have a negative impact on LDC exports (Evenett and Fritz, 2015).

- 7.3 If the UK is to adopt a more liberal trade policy vis-à-vis the rest of the world, one way of clearly signalling a move in that direction would be to abolish TDIs altogether, or at least to curtail their use considerably. While it is the case that used appropriately TDIs can have the effect of promoting rule-following behaviour in trading partners, it is precisely because TDIs have a protectionist and discriminatory effect that they often find favour among those domestic constituencies worried about stiff competition from imports.
- 7.4 While a move towards a more liberal trading policy may indicate that TDIs be abolished or be substantially downgraded, it is more likely that the UK will seek to retain them, at least as aspects of commercial law if not as active elements of commercial policy. Under these circumstances, it would be simplest if the UK merely adopted existing EU TDIs upon withdrawing from the European Union. This is appealing given that EU TDIs have undergone a long process of development and refinement, are WTO compliant, and are believed to have been effective in defending EU commercial interests and enhancing welfare in the European Union (albeit that even staunch advocates of TDIs recognise that there have been anomalies in their application - see EU, 2012).
- 7.5 European TDIs are not, however, formally part of the EU's overseas development programme and do not normally form part of an integrated development policy, though they are a central component of its trade policy. TDIs have both positive and negative development effects. They have positive effects in that they can boost the market exposure and competitiveness of developing country imports in areas where TDIs have been deployed against third country products. They have negative consequences when they discriminate directly against developing country imports or else against imports that are produced using products from developing countries. Thus a trade policy that actively targets unfair trade practices from third countries in which developing countries have a market interest can be a useful component of an overseas development policy. It is unlikely, however, that TDIs would be designed with this purpose solely in mind particularly if the UK seeks to move toward freer rather than more protectionist trade policies. Under these circumstances it would be prudent to eliminate or heavily restrict the use of TDIs.
- 7.6 The literature on TDIs is extensive and the theoretical and empirical aspects of these retaliatory measures are well understood. The literature on dumping and anti-dumping comprises the lion's share of work on TDIs, with extensive coverage in the legal, political and economic literatures. Much has been written about the causes and rationale behind dumping, its effects, the strategic aspects of dumping and anti-dumping policy, and the design and effect of anti-dumping legislation (see Brenton, 2001, for an overview of the EU context). Van Bael and Bellis (2011) is a standard work on the legal aspects of EU TDIs. Finger (1993) offers a good early overview of the effects of anti-dumping measures on developing countries as well as their use of such legislation. Willig (1998) is an accessible older work reviewing different perspectives, while Davis (2009) offers a solid overview of the effect of EU anti-dumping measures (see, also, Holmes and Kempton, 1996). Bown (2013) explores the difference between anti-dumping and safeguard measures as temporary trade barriers. Bown and McCulloch (2012) chart the rise of the use of antidumping as a protectionist device by, first the advanced industrial economies and then emerging powers, while Irwin (2005) explores the upswing of US use of anti-dumping measures.
- 7.7 Though not quite as extensive, the literature on countervailing measures and safeguard mechanisms is also wide ranging and the issues therein well understood (see Balassa, 1989; Coppens, 2014).

Agreement on Subsidies and Countervailing Measures. Both agreements are backed up with the possibility of recourse to the WTO dispute settlement procedures.

11 De Bièvre and Eckhardt (2011) offer an account interest group influence in EU anti-dumping policymaking.

Less has been written about EU trade barrier regulation, but its successes in defending European commercial interests are nonetheless well understood (see, for instance, Bronkers and McNelis, 2001).

- 7.8 Where the literature is less developed is in its exploration of the interrelationship between the evolution and deployment of national TDIs and the effectiveness of international development policies. The impact of EU TDIs on development policy will need to be assessed, as will the UK's position on TDIs and development during its membership of the EU. From these building blocks, it will be possible to undertake *ex ante* research on designing a UK TDI policy that ensures that there are no, or very limited, negative effects on developing countries.

Summary of research opportunities

- *ex ante* research on designing a UK TDI policy that avoids negative effects on developing countries (Struct).

8 Trade facilitation (TF)

State of play of EU initiatives towards developing countries

- **EU assistance to implement the WTO TFA:** The EU has committed to provide €400 million over five years through its regional and national support programs as well as the multi-donor Trade Facilitation Support Program (TFSP) managed by the World Bank and the WTO Trade Facilitation Agreement Facility.
- **The UK is much more broadly engaged in supporting TF than the EU** – including the above initiatives as well as regional programs such as Trademark East Africa and broader support to multilateral agencies for TF projects (e.g., the 2010-16 World Bank Trade Facilitation Facility).
- **Complementary measures by the EU** have been an important element of trade facilitation for developing country exports, including DFQF access for LDCs and the recent liberalisation and simplification of rules of origin (discussed above).

- 8.1 The level of trade-related transactions and operating costs is a major determinant of firm-level competitiveness. This has always been the case, but is increasingly so in today's highly integrated world economy where value chains span multiple countries. Trade costs are not just important for trade in goods, they also affect trade and investment in services. The trade facilitation (TF) agenda goes beyond administrative practices and border clearance procedures to include logistics, domestic transport efficiency, communications infrastructure and related services, among others. While the elements of TF are relatively well-understood, identifying how specifically to reduce trade costs through TF measures requires country-specific research, including consideration of the extent to which co-ordinated action by two or more governments is needed—e.g., ensuring ICT systems can “talk” to each other; sharing of data; adoption of common classification and risk management systems; adoption of common administrative documents, etc. From a development perspective the TF agenda has both a UK policy dimension (how could TF measures by the UK promote trade with developing countries) and an aid for trade dimension (what can the UK do to support TF in partner nations). The latter is discussed later under Aid for Trade (A4T).
- 8.2 There is extensive empirical research that finds that lower trade costs boost bilateral trade, support diversification along the extensive margin of trade, and increase aggregate welfare.¹² Import-competing interests who benefit from complexity and burdensome procedures (e.g., customs brokers) will lose rents, but overall TF is welfare enhancing. The extant research suggests that TF—if pursued seriously—could contribute welfare roughly equivalent to the potential net welfare gains that might be realised from further tariff reductions and/or implementing trade agreements.¹³ An important source of benefits is a reduction in uncertainty for traders regarding market entry conditions. TF is particularly important for small firms, as trade costs are in part fixed, implying that small consignments confront higher unit costs of satisfying administrative requirements at the border.
- 8.3 EU policy in this domain is consistent with World Customs Organisation (WCO) conventions and other relevant international conventions dealing with border and transport-transit related procedures (e.g., WCO Kyoto convention; UNECE transit and data interchange conventions; the WTO Trade Facilitation Agreement, among others). Whether and how the European Union

12 The recent empirical literature is extensive and includes Djankov, Freund and Pham (2010); Dennis and Shepherd (2011); Freund and Rocha (2011); Hillberry and Zhang (2015); and Shepherd (2013). A recent contribution by Beverelli, Neumueller and Teh (2015) is representative in concluding that TF will have significant positive impacts on diversification along the extensive margin for African countries, estimating that the WTO TFA could support an increase of 14-16 per cent in the number of products and export destinations for sub-Saharan African countries.

13 E.g., Hoekman and Nicita (2010, 2011); World Economic Forum (2013).

Customs Code and related policies with a bearing on TF outcomes could be improved upon so as to facilitate UK imports from developing countries is not a matter on which there is much research—this appears to be one gap that should be filled. The UK has a relatively efficient border clearance process, but lags behind the best-performing countries. It is, for instance, ranked 8th on the World Bank’s Logistics Performance Indicators (LPI)—behind, *inter alia*, Germany, Sweden, the Netherlands and Belgium—and 38th on the World Bank Trading Across Borders indicator (effectively it is ranked 18th as a group of twenty EU member states that are jointly in first place).¹⁴

- 8.4 Abstracting from expanding the coverage of preferential market access programs and changing RoO regimes discussed elsewhere in this paper, one area in which the UK could facilitate trade for developing nations would be to increase the *de minimis* value above which tariffs are applied to consignments originating in developing countries (this would have to apply to all developing countries to conform with WTO rules). The current level in the EU is €150, which compares unfavourably to levels in some other OECD countries—e.g., US\$ 800 in the US; A\$ 1,000 in Australia (Global Express Association, 2016). Adopting a similar level as in these two countries—£650—for developing countries would constitute a significant improvement in market access and promote ecommerce-based trade and SME exports from beneficiary countries. However, it would also imply some erosion of the value of Duty-Free Quota-Free (DFQF) access for LDCs.
- 8.5 To make such a measure more effective in increasing incentives to import from developing countries without negatively affecting LDCs, the latter group could benefit from exemption of VAT. The current value of shipments below which VAT is not charged is €22 in most EU member states. Recent research concludes that the optimal value for the VAT exemption on imports is €80 (Hintsa et al., 2014)—the level above which the marginal benefit exceeds the marginal cost of collecting the VAT. Extant research in this area has not focused on targeting developing countries but has addressed MFN trade and driven by efficiency considerations—balancing collection/administrative costs for agencies and firms against revenue collected. While increasing *de minimis* duty levels for all developing countries and targeting VAT exemptions for LDCs is a way to make preferential access regimes more effective, it requires research on how to balance *de minimis* and VAT exemptions in a way that leverages DFQF access for LDCs. A first immediate step could be to focus research on business to consumer transactions—where a firm in a developing country sells and ships a good directly to a consumer in the UK—as the elimination of VAT for such transactions is more straightforward to implement but also gives rise to clear revenue losses for the Treasury.
- 8.6 Another area where research may be useful is to ask why UK customs clearance is more costly than in a number of other OECD countries/EU member states (World Bank Doing Business data suggest the UK scores well on the time it takes to clear/process consignments, but less well on financial cost of clearance). Identifying why this is so and what could be done to lower these costs for developing countries requires research. One area for potential action on this front is greater cooperation and data exchange with customs authorities in developing nations—identifying where this might have the greatest positive effect is another area for research.
- 8.7 Support for TF in developing countries is discussed elsewhere in the Aid-for –Trade (A4T) section of this paper. There is already much attention being given to TF support/projects by the UK. Post-Brexit there are opportunities to focus more on services trade and to prioritise aid for TF in the context of implementation of future/successor trade agreements. Services facilitation in particular should be an area for research as it is not part of the WTO TFA agenda and therefore is not supported sufficiently by EU assistance for trade facilitation projects.

14 The Doing Business project revamped its methodology in 2016. Using its previous methodology, the UK was ranked 15th in the world.

Summary of Research Opportunities

- Analysis of extending *de minimis* value import shipments to cover all developing countries (Ectic, Struct)
- Assessment of the implications of exempting LDCs from VAT for shipments below different threshold value. (Struct)
- Trade-offs between benefits/costs for LDCs and non-LDC developing countries; and between overall trade facilitation benefits and revenue losses. (Simul)
- Analysis of measures to reduce administrative import compliance costs for developing countries, including through cooperation between UK and partner customs agencies. (Case, Struct)

9 Services

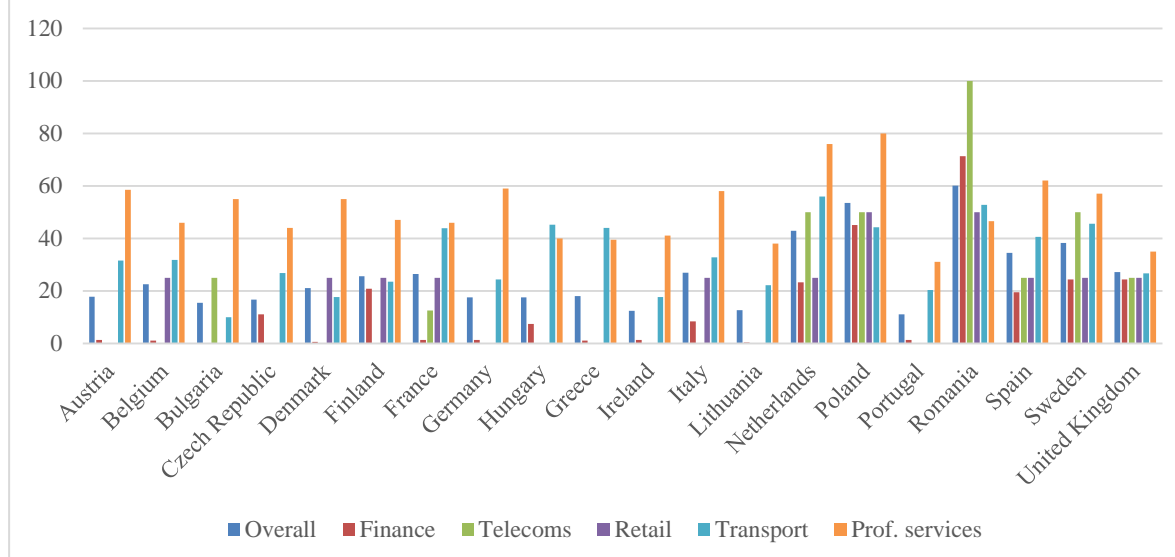
EU services trade policy and developing countries

- There is no common EU external trade policy for services. EU member states have different services trade policy commitments in the WTO and EU PTAs
- The UK is more liberal than some EU member states in some sectors, but overall maintains significant services trade barriers that are relatively uniform across sectors
- EU commitments to liberalise trade in services are generally limited in the WTO and in PTAs, although the sectoral coverage of services commitments are greater in PTAs
- The EU's offer to provide preferential access to services markets under the WTO services waiver is very recent and its impact is therefore unclear
- The EU has put in place a number of bilateral initiatives to facilitate 'circular migration' through mobility partnerships and bilateral labour agreements that cover services providers, but the effect of these has not been evaluated.

- 9.1 A recent ODI report on services (ODI, 2016) documents that services play a key role in economic transformation and that services offer a channel through which countries can exploit their comparative advantage.¹⁵ Sectors such as tourism or business process outsourcing (BPO) are important activities that can generate substantial employment and foreign exchange earnings. The literature suggests indirect linkages are important for productivity and thus competitiveness of firms. Services account for a substantial share of the total costs of production of many firms in multiple sectors. Reducing the costs and increasing the quality of available services is therefore a mechanism through which economy-wide performance can be increased.
- 9.2 Market access—liberalisation—is one channel to do so. This pertains both to the UK and developing countries. The key stylised fact here is that restrictions on trade in services are generally greater than those pertaining to trade in goods. The EU is still far from being a customs union when it comes to services trade and investment policies, however. UK services trade and investment policy is less restrictive than the EU on average (a services trade restrictiveness index (STRI) of 27 vs. 35 using the simple unweighted average STRI across all sectors/modes), but, as can be seen in Figure 2, levels of restrictiveness for many sectors are much lower than in the UK in specific EU member states. The lower average STRI for the UK reflects its more open stance towards professional services. Of particular relevance for the UK is the more open stance of Ireland.
- 9.3 The UK has made more commitments under the General Agreement on Trade in Services (GATS) on market access and national treatment than some EU member states, reflected in a lower incidence of “unbound” in its specific commitments. The extent to which UK commitments are more/less restrictive than those of other EU member states has, to our knowledge, not been analysed in detail and will require specific analysis. That said, extant STRI data suggest the UK has substantial scope to lower services trade restrictions. A comparison of Figures 3a and 3b shows that France, for example, is less restrictive for sectors such as engineering, insurance road transport and courier services.

¹⁵ There is a substantial and rapidly growing empirical literature on services, trade and growth linkages. Much of this is referenced and discussed in Francois and Hoekman (2010) and ODI (2016). Hoekman and Shepherd (2015) documents the importance of services and services trade policy for developing country export performance. Berlingieri (2014) and Young (2014) show that structural transformation is in part an intra-services reallocation dynamic and that average productivity growth in services is similar to that in other sectors, contrary to received wisdom (prejudice) in the growth and development literature.

Figure 2: World Bank STRI for EU member states



9.4 The STRI data as well as GATS and FTA commitments make clear that the incidence of different types of trade restrictions—across modes of supply and in terms of affecting entry (that is, discriminatory barriers against foreign providers) as opposed to competition on markets (i.e., conduct regulation that applies to all firms)—varies, as will the associated economic impact on costs and prices of services. This has four dimensions with implications for research:

- (i) the identification of services where liberalisation and/or regulatory reforms will benefit the UK;
- (ii) the extent to which liberalisation involves multiple policies;
- (iii) whether (some) developing countries have an effective supply capacity in the relevant sectors and thus could benefit from preferential liberalisation; and
- (iv) whether and how aid for trade could be targeted to facilitate such trade expansion.

Figure 3a: STRI by sector, UK (OECD methodology)

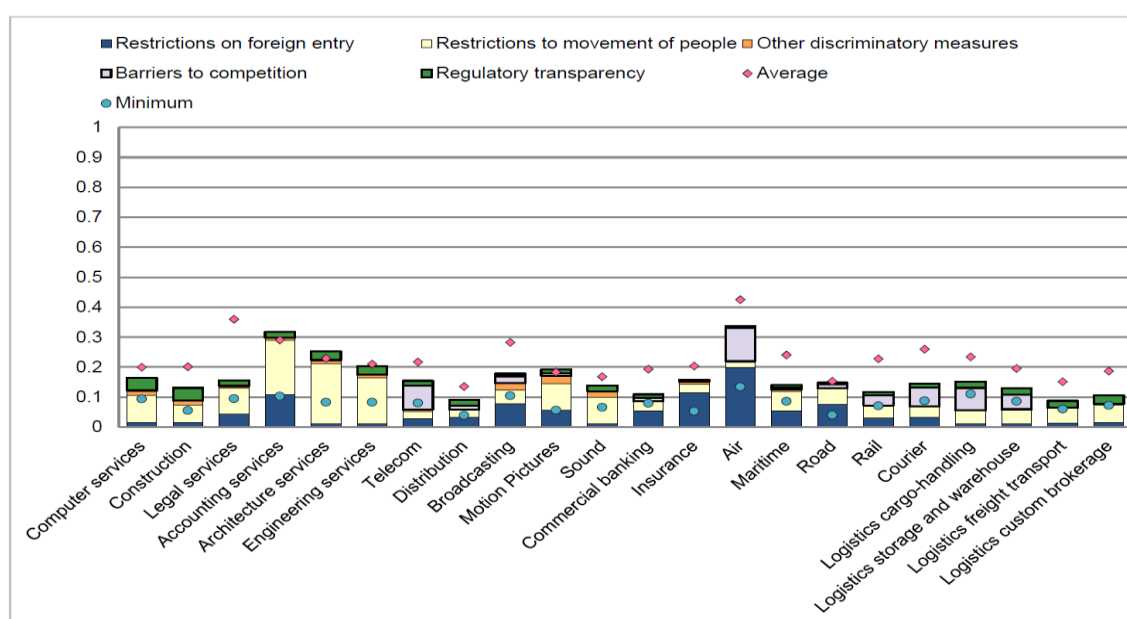
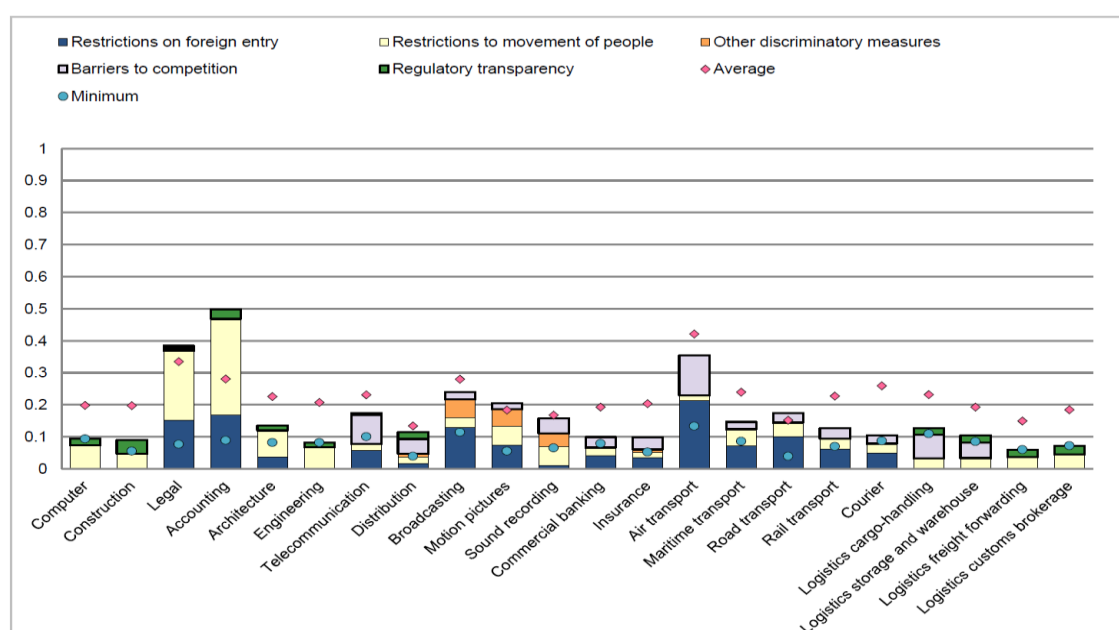


Figure 3b: STRI by sector, France (OECD methodology)



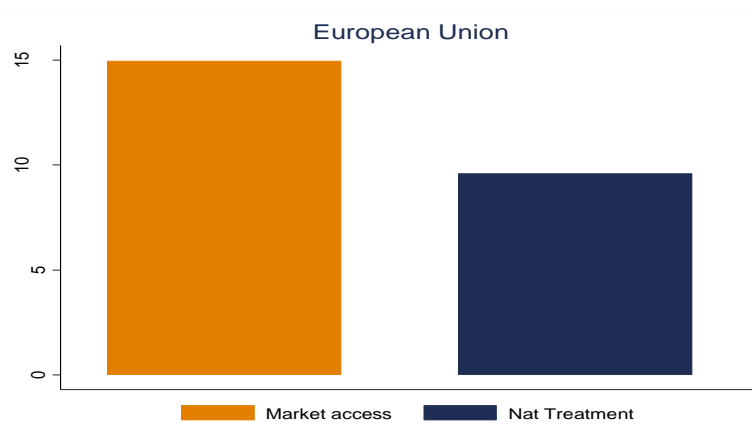
Source: OECD STRI database.

- 9.5 There is relatively little research on these questions reflecting the more general neglect of services trade in the literature. Answers to these questions are needed in order to determine what could be done to expand/leverage the WTO waiver for services trade preferences, as well as the design of possible future FTAs with developing nations.
- 9.6 The (indicative) offer by the EU in response to the LDC request in operationalising the services waiver has focused on Mode 4 (on the movement of natural persons) and current GATS commitments for contractual service suppliers include: a doubling of the permitted stay period from 3 to 6 months and expanding the sectoral coverage to which this applies; and permitting graduate trainees to stay for one year, and independent professionals and intra-corporate transferees for up to 6 months at a time. These are areas where the UK's GATS commitments are sometimes somewhat more liberal than the EU average, as some EU member states have not scheduled any sectoral commitments at all (i.e., 'unbound' is written into the relevant market access column). These are also areas where more might be done on a unilateral basis by the UK, both for business visitors and, more importantly, for contractual service providers and intra-corporate transferees (e.g., expanding this to employees of foreign services firms who are not managers but provide specific services).
- 9.7 The potential benefits of Mode 4 liberalisation have long been known to be significant—as *ex ante* analysis by Winters (2000) and Winters et al (2002) show. There is little *ex post* work to draw on, however, although Jansen and Piermartini (2004) find a correlation between mode 4 and goods trade. The EU has put in place a number of bilateral initiatives to facilitate 'circular migration' through mobility partnerships, mostly with EU neighbourhood countries (Moldova, Cape Verde, Georgia, Armenia, Morocco, Azerbaijan, Tunisia and Jordan). These cover services providers but to our knowledge there has been no research assessing the impacts of such bilateral agreements on trade in services through this mode of supply. The same is true for EU PTAs. Even where PTAs deal with the movement of natural persons, their intentions can be frustrated by ostensibly non-trade factors such as the rules and practice for issuing visas. European Commission (2014) finds this problem in the EU-CARIFORUM EPA.
- 9.8 In fact, Mode 4 is not the most likely mechanism for encouraging serious engagement with workers from developing countries. The GATS requires Mode 4 offers to be MFN, whereas for a series of

cultural and historical reasons, as well as fear of opening up to very large flows, potential host nations generally prefer labour agreements to have very narrow geographical cover. One example of the development benefits that labour mobility can achieve is the New Zealand Recognised Seasonal Worker Scheme which brings Pacific Island workers to New Zealand's horticulture and viticulture sectors. The formal evaluation of this scheme—Gibson and McKenzie (2014)—suggested that this was a best-practice example of development policy which raised the incomes of beneficiary families by over 30 per cent. Winters (2016) discusses in detail the origins of the policy and the institutional conditions that appear to have been needed in both the Pacific and in New Zealand. The moral is that such policies can be very beneficial but that they require strong political momentum and careful administration on both sides.

- 9.9 *Ex ante* research to identify plausible labour-supplying countries to specific the UK sectors—such as horticulture—may be a worthwhile exercise because the prospect of losing Eastern European workers has caused considerable alarm. It should be recognised though, that the entry of natural persons supplying services in this way is distinct from Brexit: the UK could always have instituted such schemes if it had wished because the matter is not a EU competence. What has changed is the need for such policies.
- 9.10 Given that the UK is much smaller than the EU, it is unclear whether it will be able to negotiate better access than the EU through PTAs. The empirical literature on the design (content) and effects of services trade agreements suggests most have not been very effective at opening services markets (Miroudot et al. 2010). Unilateral reform instead appears as the prime channel through which steps toward liberalisation have been made. This points to the need to focus on national services trade policies—which in turn can be the focus of both PTAs and aid for trade (A4T) support. The UK's STRIs and GATS commitments imply it will have scope to offer more concessions to developing countries than the EU currently does. In this regard a knowledge gap concerns the extent to which the EU has gone beyond the GATS in its FTAs and assessing whether areas where the EU has been less willing to open market access or apply national treatment are less sensitive for the UK. Miroudot and van der Marel (2014) have shown that the EU has been more inclined to offer GATS+ market access concessions in FTAs than to make stronger national treatment commitments (Figure 4). Thus, there may be scope for the UK to do more on the latter.

Figure 4: EU commitments in FTAs going beyond the GATS



Source: Miroudot and van der Marel (2014)

- 9.11 Recent research has shown that the quality of economic governance and regulatory regimes are determinants of how much a country stands to benefit from opening services markets to foreign competition. Van der Marel (2016) shows that regulatory policies in the EU have a negative impact on firm productivity, and that policies that restrict entry have less of a negative impact on downstream productivity than policies that impact on conduct. He also shows that the weaker

institutions are (governance) and the more technologically advanced industries are, the greater the negative effect of restrictive regulations.

- 9.12 A liberal services trade policy in UK and in partner developing countries will benefit growth prospects but the size and distribution of gains depend on governance. This is illustrated in Table 1 which reports estimates of the effects of removing Mode 3 (Commercial Presence) barriers in both the UK and a sample of African countries on labour productivity in a large manufacturing sector in each country. The results show that: (i) the UK still has much to gain from services trade liberalisation; and (ii) the effects of opening up become much larger in African countries if action could be taken to move economic governance to the ‘best practice’ level regionally (Botswana) or, much more ambitiously, global best practice (represented by Denmark).

Table 1—Impact of removing Mode 3 restrictions on downstream labour productivity (% Δ)

Impact		Country Ranking				
Country	Sector	Own Inst.	High Inst. (Africa)	High Inst. (Denmark)	STRI	Institutions
UK	food/bev	39.3	n.a.	50.9	15/20*	8/20*
Botswana	furniture/n.e.c.	34.3	34.3	62.2	6	1
Burundi	food/bev	-1.6	27.8	50.4	2	8
Ethiopia	food/bev	20.1	98.1	177.8	8	7
Malawi	food/bev	6.4	26.6	48.3	4	6
Mauritius	textiles/app	14.2	18.5	33.5	1	2
South Africa	food/bev	34.7	55.2	100.1	7	3
Tanzania	food/bev	14.1	41.6	75.4	5	5

Notes: Governance variable: control of corruption (World Bank Governance Indicators). Services trade policies from the World Bank Services Trade Restrictiveness Database. Labour productivity (output per worker) from UNIDO industrial statistics database. “Current institutions” estimates are statistically different from zero only for Botswana, Mauritius and South Africa. * STRI & governance ranking out of 20 EUMS for which STRI data are available.

Source: Based on Beverelli, Fiorini Hoekman (2015).

- 9.13 These findings have implications for A4T that are relevant for both services facilitation and TF—A4T should not only be complemented by efforts to improve governance but there is a need to better understand what can be done in the short run (given that improving rule of law and controlling corruption is a longer-term agenda) to increase the benefits of services trade openness in low-income countries. Given that trade in services is mostly regional (ODI, 2016), one element of this is to focus A4T and the design of FTAs more on the promotion of liberalisation of trade in services at the regional level and more generally to include a focus on facilitation of trade in services in TF efforts more broadly.
- 9.14 The deliberations on the services waiver that generated the LDC request made clear that a constraint for LDC suppliers is that they are likely to need to use multiple modes of supply to contest a market—i.e., they are complementary in the sense that a firm will need to have access to more than one mode. There may be ‘bottleneck’ facilities that it is not possible to access, or anti-competitive behaviour that is detrimental to foreign firms but not to UK consumers and thus not subject to current competition rules in the EU/UK. Identifying and taking action to address specific constraints is an area where research could have substantial payoffs not only in terms of exports but, more importantly, in changing attitudes and perceptions towards services in developing countries. This is an area where there is significant negative ‘baggage’ from the EU effort to extend the coverage of FTAs to include services. The opportunity cost from a development viewpoint has been substantial. A fresh approach by a post-Brexit UK offers potential to address the EU failure.

Summary of Research Opportunities

- Analysis of UK commitments in WTO and PTAs and how these differ from other major EU member states to identify scope to offer more concessions to developing countries than the EU currently does (Ectic, Synth, Case)
- *Ex ante* research to identify plausible labour service-supplying countries to address specific UK sectoral demands—such as in horticulture (Struct)
- Analysis of potential economic impact for UK and developing country partners of services liberalisation in UK and in country(ies) concerned, taking into account effective supply capacity in developing countries/LDCs (Case, Simul)
- Assessment whether and how A4T could be better targeted to facilitate services trade expansion by addressing weaknesses in overall and sector-specific regulatory regimes in developing countries to inform A4T for services trade. (Case, Struct)

10. Investment Agreements

Bilateral Investment Treaties (BITs): the state of play¹⁶

UNCTAD puts the number of BITs currently in force at 2,322 with a further 294 agreements in force that have investment provisions. Of these, China has 110 BITs and the United States 41. The EU has 52, to which the UK is currently party. Following the entry into force of the Lisbon treaty, investment became an EU commercial competency; and in 2010 the European Commission gave notice that, as part of the Europe 2020 strategy, the 1200 BITs in force among the EU28 would gradually be replaced by EU agreements. The UK has 96 in force, which vary markedly in regulatory design.

- 10.1 Investment agreements seek to stimulate the flow of foreign direct investment between contracting parties by offering investors particular guarantees, frequently supported by an arbitration or dispute settlement mechanism (often under the guidance of the World Bank Group International Centre for Settlement of Investment Disputes, ICSID—see Allee and Peinhardt, 2010 for an overview). They are regularly components of and/or adjuncts to international trade agreements. Investment agreements are primarily bilateral arrangements and are known as bilateral investment treaties (BITs) or are components of regional agreements (such as chapter 11 of the North American Free Trade Agreement, NAFTA).
- 10.2 Multilateral aspects of investment regulation do exist, most notably in the form of the WTO's Agreement on Trade Related Investment Measures (TRIMs) and Mode 3 of the GATS. These are not, however, extensive investment agreements. TRIMs disciplines attempt to filter out the trade distorting effects of certain investment measures (such as unfair local content requirements, and various prohibitive measures, of which it gives illustrations rather than a definition), while GATS rules govern the establishment of locally established entities in the delivery of services. Under the TRIMs, members had to notify the WTO secretariat of any non-conforming investment measures and developing countries were given extended periods in which to phase out all TRIMs (5 years for developing countries, 7 for least developed, 2 years for all others). These time limits and any agreed extensions have now passed. The GATS comprises standard special and differential treatment clauses for developing and least developed and these cover Mode 3 schedules on investment. UNCTAD (2007) offers an overview of developing country experience with TRIMs. Chanda (2002) outlines developing country concerns and experiences with GATS (also, Hodge, 2002).
- 10.3 TRIMs and GATS Mode 3 aside, attempts to negotiate a multilateral investment agreement have been unsuccessful. The OECD initiated negotiations on a Multilateral Investment Agreement (MAI) in 1995 that would first apply to its then 29 members with the possibility over extension beyond the organisation thereafter. The agreement's architecture mirrored that of comparable multilateral trade agreements (such as the GATT and GATS). However, the negotiations met with significant opposition and collapsed in October 1998 after France withdrew its support (Wilkinson, 1999). Since then, although the issue of a multilateral agreement on investment has been raised on numerous occasions—it was noted as part of the work programme of the WTO's Doha Development Agenda, and a WTO working group has been in operation since 1996—no concerted attempt has been made to launch a new set of negotiations (Hoekman and Mattoo, 2007). That said, a measure of investment regulation forms part of the plurilateral negotiations—that is, among a subset of WTO members—on a Trade in Services Agreement (TiSA—see Adlung, 2015). Drafts of the TiSA contain similar development provisions (in terms of safeguards and more generous time limits) to the GATS and TRIMs.

¹⁶ See <http://investmentpolicyhub.unctad.org/IIA>; <http://www.state.gov/e/eb/ifa/bit/117402.htm>; http://trade.ec.europa.eu/doclib/docs/2011/may/tradoc_147884.pdf

- 10.4 Given that investment competencies will return to the UK upon leaving the EU, there is an urgent need to review the UK's existing BITs, to explore what may be lost by no longer being part of the new planned European investment agreements (of which only the EU-Canada Trade and Investment Agreement has been concluded), to analyse the consequences of exiting the 52 existing BITs the EU has in force. Further research is also needed to determine where best practice lies and which investment arrangements are the most effective as tools of UK trade and development policy.
- 10.5 The need for further research is also underscored by the variation of views in the academic literature on the effect of BITs. While the impact of BITs in terms of their effect on investment flows is well debated in the literature, the findings are ambiguous. Some studies suggest that while evidence does exist that investment flows have increased to developing countries in cases where BITs have been negotiated, the direct impact of these agreements is limited and important only when the general investment climate is good (see Hallward-Driemeier, 2003 for an overview and Salacuse and Sullivan, 2005 for a most extensive examination) or when political relations have been tense (Desbordes and Vicard, 2009). In asking questions about why developing countries are keen to sign up to BITs, Elkins, Guzman, and Simmons (2006) find that competition among developing countries to attract FDI is the determining factor. Others suggest that when looked at in the aggregate BITs have a positive and significant effect on the flow of foreign direct investment (see Neumayer and Spess, 2005; and Egger and Pfaffermayr, 2004). Kerner (2009) supports this view in a paper that attempts to account for model and assumption variation in other analyses.
- 10.6 The divides in the literature aside, international investment agreements—bilateral and multilateral—have been subjected to much criticism. The bulk of this criticism has centred on the lack of robust regulatory oversight of foreign investors and the inclusion of investor-state dispute settlement processes that have seen large multinational corporations awarded significant compensation in instances when legal changes impinge on investor rights and expectations (see Hallward-Driemeier, 2003). With regard to developing countries, concerns have also been widely raised that BITs lend foreign investors 'super' rights over their domestic counterparts. Criticism has also been levelled at the capacity of investors to pursue claims in multiple venues to ensure their rights are guaranteed (a practice known as forum shopping—see Busch, 2007 for an overview). This, in turn, has led to widespread pushback and a consensus that safeguarding the right of states to regulate in the public interest should be a core component of the next generation of international investment agreements (UNCTAD, 2015). Further research identifying models of international investment agreements that enable the UK to be ahead of this curve would be useful.

Summary of Research Opportunities

- Further analysis of the effects of investment agreements on facilitating inward FDI to developing countries (Ectic, Synth, Case)
- Understanding the consequences of leaving EU investment agreements (Struct)
- Analysis of the operation of investor-state dispute settlement processes and their effects on development; identification of best practice arrangements (Synth, Case, Struct)

11. Aid for trade (A4T)

EU State of play

- ***The EU is the largest provider of A4T:*** €11.7bn in 2013 (excluding EIB loans), of which €2.9bn in trade-related (technical) assistance (TRTA). Instruments to allocate these funds include the EDF (for the ACP) and funding vehicles available to countries with association agreements (such as the Development Cooperation Instrument; European Neighbourhood & Partnership Instrument, etc.). This figure includes aid for pre-accession countries but excludes loans by the EIB.
- ***The UK contribution:*** The UK accounts for only a relatively small share of EU A4T: 6.2 per cent of total A4T (€729 million).
- ***Trade and development policy coherence:*** EU institutions dealing with the trade and development agenda remain distinct, with DG TRADE and DG DEVCO the main actors, the former responsible for trade negotiations, the latter for development assistance. The EU has done less to integrate these agencies than some EU member states, including the UK. Notwithstanding the EU Policy Coherence for Development (PCD) initiative, arguably this is a factor in why the EPAs and other EU trade initiatives with developing nations have been contested and are likely to have limited impacts on growth and poverty reduction.

- 11.1 In principle the allocation of A4T should reflect the outcome of country-level deliberations that are informed by diagnostics such as the Diagnostic Integration and Trade Studies (DITS) that are part of Enhanced Integrated Framework (EIF) process. The provision of A4T is a unilateral policy domain that is not constrained by the EU and thus will not be directly impacted by Brexit, although it will presumably alter the extent to which UK aid is channelled through/delivered by EU institutions. The likely impacts of Brexit will be relatively limited in this regard given that the UK share of EU A4T is only 6 per cent (in 2013, the latest year available—see European Commission, 2016), substantially less than the UK's 17 per cent share of total EU GDP. In contrast, Germany and France account for 32 per cent and 15 per cent respectively of total EU A4T.
- 11.2 An independent UK trade policy will open up the possibility of doing more to link A4T to the implementation of UK trade agreements and preferential access programs. On the former, there are various linkages between EU FTAs and EU aid programmes, especially for the European Neighbourhood (ENP) countries. EU strategies in the area of FTA-A4T linkages differ from those of the USA and other large OECD countries such as Japan, suggesting there will be value in research that distils what these differences are and what can be learned from them if the objective is to make FTAs more effective instruments of economic development. Of particular importance is assistance that goes beyond supply side capacity projects and is directed towards strengthening regulatory institutions and economic governance in developing countries. The effectiveness of FTAs in fostering greater trade can be bolstered by regulatory cooperation, mutual recognition of conformity assessment systems, and so on—areas that are becoming more important (e.g., Swinnen, 2014) and that could be linked to the implementation of FTAs. Another example where A4T could usefully be linked to trade agreements is services trade facilitation (ODI, 2016). This is important both for unilateral UK services waiver-related market access initiatives and for future FTAs. Services have not featured much in EU FTAs (not just the EPAs) in part because partner governments do not fully trust the Commission and because the Commission fears that the necessary regulatory reform and strengthening may not take place. It may be worth thinking about focusing initially on the implementation of the services waiver and identifying specific services activities and supply/value chains where A4T can make a real difference in bolstering supply capacity. This would provide demonstration effects that there are benefits to partner countries of focusing on services.

- 11.3 Regulatory co-operation, services trade facilitation and investment promotion/protection/facilitation are all examples where research to assess experience to date in A4T programs and the design of possible linkages to FTAs and utilisation of preferential access programs is needed. In principle aid should go to the highest return interventions, and A4T aimed at making services preferences or FTAs more effective may have lower returns than A4T allocated to other areas. From a strategic perspective, given the lack of success that the EU has had in cooperating to improve ‘behind-the-border’ trade policies and related institutions in developing countries, the UK could play an important role in showing how A4T can be combined with trade policy initiatives to enhance trade performance of developing country partners (Hoekman and Mattoo, 2013).

Summary of Research Opportunities

- The connection between A4T and FTAs (Synth, Case, Struct)

12. Institutional design and coherence

- 12.1 Trade policy today has many facets and dimensions, cutting across the remit of many domestic ministries as well as regional and global competencies. From a development perspective a key challenge is to ensure that economic development considerations are integrated coherently into trade policy and that they are consistently applied and pursued. A4T is one mechanism to do so. Ensuring the coherence of trade policy with A4T and more generally development policy is a challenge confronting all governments and many different models have been adopted by countries that aim to inform policy formulation and to act as co-ordination mechanisms.
- 12.2 Effective models have a number of common characteristics (Hoekman and Roy, 2013):
- (i) high level political guidance through reporting to/oversight by the head of government (prime minister's office);
 - (ii) an institutional mandate to undertake high-level coordination of responsible public agencies (e.g. Trade Team Canada comprises 21 federal government departments, the US Export Cabinet comprises 14 public agency heads, while the US Trade Promotion Coordinating Committee comprises 20 agencies); and
 - (iii) a formal private sector consultative structure to ensure both transparency and to provide a mechanism for business and other stakeholders to provide inputs and feedback to government.
- 12.3 Domestic level considerations are not, however, all that needs to be taken into account when designing sound trade and development policies. Development focused trade policy cuts across the competencies of a wide range of global institutions, including—but not limited to—the WTO, FAO, ILO, IMF, ITU, ITC, OECD, UN, UNCTAD, UNEP, World Bank, WCO, WHO, OIE and WIPO, as well as regional counterparts, including regional development banks and regional economic communities.
- 12.4 At least three issues arise that obfuscate the formalisation and joint operationalisation of trade policy and development policy and which have underpinned calls for greater coherence in global economic policy making beyond the limited legal concordats that exist (see Haas, 1992; Bernstein and Hannah, 2012; also Wu, 2016):
- (i) a lack of co-ordination and planning between and among institutions;
 - (ii) duplication of effort; and
 - (iii) conflicting policy goals and demands.
- 12.5 UK trade and development policy will have to navigate this multifarious terrain ensuring consistency and compliance while understanding different institutional requirements. The prospects for this are enhanced insofar as the number of players involved declines because coherence now needs to span only UK agencies. Pursuit of policy coherence will be assisted by clarity in the formulation of national policy, regular communication across all UK institutions, including in the drafting of legal instruments, and a common approach to interfacing with external systems of governance. While there is a substantial and settled literature on policy incoherence at the global level and policymaking nationally (including interfacing with the EU—see Wallace, Pollack and Young, 2015) little has been done on trade and development policy formulation and its fit with external transnational forms of governance (see Bache and Flinders, 2004). That said, it must also be recognised that the EU has made efforts to enhance policy coherence through the Policy Coherence for Development (PCD) initiative, which has led to revisions of the Commission's approach to upstream impact assessments as part of the 2015 Better Regulation guidelines. These include a methodology and tools for analysing the potential impact of EU policy initiatives on developing countries and can inform UK efforts in this area looking forward.¹⁷

¹⁷ see http://ec.europa.eu/smart-regulation/guidelines/tool_30_en.htm

- 12.6 The UK has been at the forefront in seeking to ensure/enhance the coherence of its trade and development policies. As it moves towards the implementation of an independent trade policy this will require a greater focus on those elements of trade policy that will become grow in importance. Examples include consideration of the development impacts of TDIs (which we address above) and the implementation by other parts of government of initiatives to promote the exports of developing countries, including the design of PTAs and ensuring that there is complementary A4T to enhance the benefits of bilateral trade initiatives for partner countries.
- 12.7 A key feature of what will be needed to maintain a consistent focus on development goals and programmes is regular consultations with the private sector in developing countries and the importing community in the UK. A problem with such consultations in many countries is that they often tend to be *ad hoc*, and are perceived by industry as such—creating negative incentive effects in terms of a lack of willingness to invest the resources needed to engage seriously on the substance of implementation and impacts of programs, and to provide inputs and feedback to adjust programs where and when needed. *Ad hoc*-ism can also result in such consultations becoming a platform for lobbying for short term interests on part of industry.
- 12.8 Much of the trade agenda today involves regulatory policies—non-tariff measures (NTMs) of various types that impact on trade costs and opportunities. In defining the specifics of a trade and development strategy and assessing what could be done in implementing it require mechanisms to generate information on the substance of prevailing regulations and their effects on trade. Learning is critical, particularly when it comes to the substance of policy rules—officials and stakeholders need to understand what the implications are of a given policy or proposed rule change, how such changes may spill over to other commitments and policies, and how they will impact the economy overall. Matters are already complex when the issue concerns the effects of traditional trade policies such as tariffs and quotas. They are an order of magnitude more complicated when it comes to services and regulatory policies.
- 12.9 The establishment of platforms and frameworks to elicit the needed engagement of stakeholders and designing these to minimise the scope for capture/rent-seeking is another area for research. Various suggestions on how to do more to engage with those who have direct interests in boosting trade of developing countries have been developed in the literature—e.g., Hoekman (2013; 2014) and WEF (2013)—but any such effort must be informed by and developed to reflect the specific context that applies in the UK.

Summary of Research Opportunities

- Identification and assessment of experiences of non-EU countries that have sought to increase trade and development policy coherence (Synth, Case)
- Evaluate the salience of EU-style *ex ante* impact assessments of proposed PTAs and trade policy initiatives and the utility of building on EU Better Regulation and PCD efforts (Struct)
- Analysis and identification of good practices in consulting with traders and other stakeholders in prioritising trade policy-A4T initiatives and learning from implementation experiences (Synth, Case, Struct)

Annex 1

Countries Eligible for Different categories of EU GSP Preferences

Standard GSP	GSP+	Everything but Arms
Botswana, Cameroon, Colombia, Congo (Republic of) Cook Islands, Cote d'Ivoire, Fiji, Ghana, Honduras, India, Indonesia, Iraq, Kenya, Kirghizstan, Marshall (Islands), Micronesia (Federate States of), Namibia, Nauru, Nicaragua, Nigeria, Niue, Sri Lanka, Syrian (Arab Republic), Swaziland, Tajikistan, Tonga, Turkmenistan, Ukraine, Uzbekistan, Vietnam.	Armenia, Bolivia, Cape Verde, Costa Rica, El Salvador, Georgia, Guatemala, Mongolia, Pakistan, Panama, Paraguay, Peru and the Philippines	<p>Africa: Angola, Benin, Burkina, Faso Burundi, Central African Republic, Chad, Comoros, the Dem. Rep. of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia Gambia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Rwanda, Sao Tome and Principe , Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Tanzania, Togo, Uganda, Zambia .</p> <p>Asia: Afghanistan, Bangladesh, Bhutan, Cambodia, Lao, PDR, Myanmar/Burma, Nepal, Timor-Leste, Yemen,</p> <p>Australia and Pacific: Kiribati, Samoa, Solomon Islands, Tuval, Vanuatu.</p> <p>Caribbean: Haiti.</p>

Source: http://trade.ec.europa.eu/doclib/docs/2015/august/tradoc_153732.pdf; Annexe IV

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