



**Universities UK
International**

HIGHER EDUCATION AND UK TRADE POLICY

UNDERSTANDING PRIORITIES AND APPROACHES TO CONSULTATION

Executive summary

Following the UK's exit from the EU, the UK will now take complete control of its trade policies – including services in trade, which should be of particular interest to higher education (HE) providers. As such, the UK policy stance towards trade in higher education services is a live issue. This report asks what treatment of UK higher education will be most appropriate and beneficial to the sector in the UK's forthcoming discussions on free trade agreements (FTAs) with partners around the world and provides guidance to inform the development of new agreements.

Date

November 2020

Audience

Pro-vice-chancellors international, directors of international

Contact

Jamie Arrowsmith
Assistant Director, Policy, Universities UK International
Jamie.Arrowsmith@international.ac.uk

About Universities UK International

Universities UK International (UUKi) represents UK higher education institutions (HEIs) globally and helps them flourish internationally. To do this we actively promote UK HEIs abroad, provide trusted information for and about them, and create new opportunities through our unique ability to act at sector level. We draw on UK university expertise to influence policy in the UK and overseas, delivering information, advice and guidance to facilitate mutually beneficial collaboration between UK HEIs and a broad range of international partners.

Acknowledgements

This paper is based on research commissioned from the UK Trade Policy Observatory (UKTPO) at the University of Sussex, with additional material provided by Sean O'Connor Consulting and UUKi.

CONTENTS

Introduction.....	4
Recommendations.....	5
Higher education and free trade agreements.....	7
Initial views from the UK higher education sector.....	12
Advice on the treatment of higher education in future free trade agreements.....	15
Concluding remarks.....	17

INTRODUCTION

Following the UK's exit from the EU, the UK will now take complete control of its trade policies – including services in trade, which should be of particular interest to higher education providers. As such, the UK policy stance towards trade in higher education services is a live issue. This report asks what treatment of UK higher education will be most appropriate and beneficial to the sector in the UK's forthcoming discussions on free trade agreements (FTAs) with partners around the world and provides guidance to inform the development of new agreements.

As we will see, the success or otherwise of ensuring higher education priorities are understood and inform any negotiations will rest on the existence of an open and effective consultation process by the UK government, and on active and engaged participation in that process by UK higher education institutions (HEIs) and representative sector bodies. However, the pace and confidentiality of likely

negotiations may mean that such opportunities are more limited than would be ideal.

This note summarises the findings from two pieces of work commissioned from the UK Trade Policy Observatory (UKTPO), and a policy dialogue event. It provides a short introduction to free trade agreements and higher education, before drawing on the results of engagement with 36 universities and learnings from FTAs across the world to present initial views of the higher education sector and to suggest guiding principles for future negotiations. It makes a number of recommendations that aim to enhance the potential impact and effectiveness of UK higher education engagement with FTA negotiations.

RECOMMENDATIONS

Recommendations for government

➤ **Recognition of the importance of higher education**

The government should ensure a clear understanding among trade officials of the economic importance of the higher education sector, which is occasionally overlooked. UK universities are a major source of income and of exports, among the UK's most successful service industries, and central to the UK's reputation abroad and hence its soft power. They are also fundamental to future well-being in terms of innovation and generating essential skills, and to the success of totemic UK government initiatives such as the industrial strategy.

➤ **Consult to draw on the international expertise of the higher education sector**

The UK government should define a process and general timeline for the consultation of various stakeholders about future free trade agreements. Effective consultation places burdens on both sides of the process – the government to lead, listen and learn, and then to provide information, and the interested parties to deliver useful advice in appropriate forms and at appropriate times, without seeking to capture the negotiation solely for sectoral gain. The presence of UK HE institutions' overseas branch campuses or TNE operations in many countries represents a rich potential source of information for the government to identify prospective

negotiating issues and contextual knowledge of relevance not only to the HE sector but also in general. The government will necessarily have to focus trade negotiations on a small number of countries at any one time; however, HE has a far wider range of global connections and accompanying regulatory concerns.

➤ **Pursue non-FTA avenues alongside trade agreements**

To maximise the value of the HE sector, and reduce risk by diversifying its base to limit exposure to specific countries, the government should conduct desk research and interviews with in-country officials to establish the prevailing conditions for partnerships, TNE and other forms of cooperation over this wider range. Much can be achieved in HE outside the confines of free trade agreements, and so the Department for Education the Department for Business, Energy and Industrial Strategy and/or DIT could pursue this agenda quite independently of the FTA route, as part of an ambitious and dynamic post-Brexit strategy to boost UK education exports.

Recommendations for the sector

➤ Awareness-raising – in government and the wider sector

The HE sector should facilitate government's preparations for trade negotiations and broader engagement by ensuring that it is adequately prepared to make an active and constructive contribution in consultation processes. This means representative bodies raising awareness of DIT's consultation exercises across the sector, working to distil common offensive and defensive interests, prioritising these appropriately, and presenting the resulting positions clearly to government.

➤ Co-ordination of HE interests

While individual institutions may well wish to make submissions in consultations, a plethora of separate views is less likely to be persuasive than one balanced sectoral position. Moreover, given the need for meetings, follow up and monitoring, an individual approach will be both more costly and less effective than a combined one. Thus sectoral bodies need to devise means by which they will develop sectoral positions. One plausible approach would be for UUKi to produce a synthesis of the primary issues of relevance to UK HE in a given UK-overseas trading relationship, and for individual UK institutions to complement this with detailed

submissions where they have a particular interest or expertise.

➤ Consultation with a full range of stakeholders

In developing positions on future FTAs, it will be important to recognise that systematic differences may exist between different sorts of institutions. Balancing these and maintaining a high degree of sector-wide coherence will be important for the sector's effectiveness. The HE sector needs a well-developed consultation process, which both collects information efficiently from the appropriate parts of UK institutions and has accepted procedures for developing a combined view at the central level. Overloading government negotiators with detail is a sure-fire recipe for losing influence so the sector will need to develop and refine priorities recommended by individual member institutions, and to deal in acceptable outcomes rather than ideal scenarios. To this end UUKi, working with other sector groups, should seek to convene expert working groups on UK higher education collaboration with relevant countries with which the UK is actively negotiating an FTA to gather sector input into negotiating priorities for the sector.

HIGHER EDUCATION AND FREE TRADE AGREEMENTS

Following exit from the EU, the UK has sought to continue existing free trade agreements (FTAs) that the UK is currently a member of via the EU, as well as striking deals with new partners. A particular emphasis of early FTA negotiations is being placed on anglophone economies, with the US, Australia and New Zealand all identified as immediate priorities for the UK government. This is in addition to the ongoing process to agree new terms of trade with the EU. Given the economic and political importance of higher education, science and research to the UK, it is vital that we understand how this sector may engage with, influence, and be affected by any future FTAs.

What are free trade agreements?

FTAs lie within a hierarchy of agreements that may facilitate trade and cooperation in research and education. This hierarchy includes:

- The WTO General Agreement on Trade in Services (GATS) lies at the apex, defining a general set of rules that determine specific commitments and limits on trade barriers.
- FTAs between small subsets of WTO members, which are typically more concrete and liberal in their commitments.
- Below FTAs, agreements between governments, some specifically referring to research and education.
- and finally, below these there may be operating agreements which define how cooperation will be implemented.

At the same level as FTAs there may be other high-level inter-governmental agreements on research or education, often pre-dating an FTA (or in the absence of one), some of which have the same legislative status as FTAs.

How can FTAs impact on higher education?

Such FTAs can affect higher education and research either through the direct treatment of these sectors in dedicated chapters of an agreement, or by changing the general conditions for service trades. Areas of higher education and research policy of potential relevance to future UK FTAs, or other forms of trade agreement, may include:

- collaboration in science, research and innovation
- the provision of education as a service (e.g. through jointly-delivered degree programmes, double degree programmes, campuses, joint schools, distance education, or other forms of transnational education)
- recognition of degree qualifications
- mobility of academic staff and students
- the right to use university title in overseas locations
- joint use of research facilities and scientific equipment
- and other regulatory issues.

However, UKTPO research suggests that it is relatively unlikely that commitments made via a trade agreement would bring immediate and direct operational benefits to the higher

education sector¹. Rather, the broad intentions of an FTA will almost always need to be translated into actions and agreements at a lower level, supported via political commitment and the deployment of adequate resources by both countries.

The example of the 2003 Singapore-Australia FTA

The 2003 Singapore-Australia FTA (SAFTA) is, however, one example of how trade agreements can lead to significant outcomes for universities. It was reported in 2016 that, while this agreement was one of the earliest bilateral agreements for both countries, it subsequently led to an agreement to increase the size of a matched funding facility for collaborative research (\$50 million over five years) as well as improved recognition of Australia's Doctor of Jurisprudence qualification in Singapore.

Australia has since made extensive use of FTAs to pursue education policy objectives with other countries, which coincided with a period during which Australia's education exports experienced consistent double-digit growth.

Future UK FTAs should therefore aim to build political momentum and embed the enabling conditions for greater cooperation in higher education and research, recognising the importance of these activities within a given bilateral (or multilateral) relationship while acknowledging that follow-on discussions and/or separate technical agreements will usually be the more appropriate channel to determine the details of implementation.

UK higher education: does the sector need a voice in any future trade deals?

The UK HE sector is a major export and income generating sector, and it is one in which the UK has a recognised comparative advantage and

for which world demand is still expanding rapidly. Quite apart from their contribution to knowledge and innovation, UK universities are major direct contributors to the UK economy, generating over £50 billion in gross value added, over £14 billion in tax receipts and approaching one million jobs. A substantial part of this stems from their international activities, principally the education of international students in the UK, but also including overseas sources of research funding, transnational education (TNE) activities (the delivery of UK higher education in other countries), consultancy services provided to international business and industry, and English language education, among others.

According to the latest figures, there are more than 486,000 students from overseas studying in the UK, and almost 700,000 students studying for UK awards elsewhere via transnational education programmes.² UK revenue from education-related exports and TNE activity increased to £21.4 billion in 2017, an increase of 7.2% since 2016 and 34.7% since 2010. Of this, higher education exports account for £14.4bn and transnational education some £2.1bn.³ A separate analysis produced by London Economics for the Higher Education Policy Institute (HEPI) estimates that every 11 non-EU students contribute £1 million to the UK economy.⁴ And crucially, international students bring diverse perspectives and approaches to their course of study, contribute to a global, multicultural campus learning environment, and in so doing help domestic students to cultivate the skills and intercultural understanding which will enable them to work in international teams or consider global trade and export opportunities in their future careers.

However, while the UK university system is world-leading and remains first choice for globally mobile students in many markets, UK institutions face substantial competition both from the established 'Anglosphere' study destinations such as the United States, Australia and Canada, as well as rapidly

Note

¹ <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/free-trade-uk-higher-education-brexite.aspx>

² <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/international-facts-figures-2020.aspx>

³

<https://assets.publishing.service.gov.uk/government/uploads/s>

system/uploads/attachment_data/file/850263/SFR_Education_Exports_2017_FINAL.

⁴ <https://www.hepi.ac.uk/2019/03/21/just-one-cohort-of-international-students-who-stay-in-the-uk-to-work-pay-3-2-billion-in-tax-and-they-arent-taking-jobs-from-uk-citizens/>

expanding and improving higher education systems in China, the wider Asia region, and the Middle East. Covid-19 has also severely disrupted the trade of services in higher education as it has done in many sectors, especially so as the mobility of people is central to the higher education export market. Whilst the impact on sector is still not fully known, estimates suggest that there could be a significant decrease in international student enrolments in UK universities in autumn 2020.

In these circumstances, the UK higher education offer to the world will be much more effective if it is backed by more supportive and closely coordinated international policies from UK government, working jointly with the sector. The launch of the government's International Education Strategy⁵ in March 2019, which took inspiration from similar approaches in competitor nations such as Australia, is an important development in this regard.

Although higher education has not figured strongly in trade policy discussions previously, the size, quality and global reputation of the UK sector means that it should actively do so in the discussions and consultation processes which will shape the UK's post-Brexit trade agenda. Exports will be at a premium now that the UK has left the EU, and the HE sector is among the UK's most successful export industries; however, it faces stiff competition abroad and trade agreements can potentially cover a number of issues that influence its competitiveness favourably.

It is also vital that the sector has a clear understanding of its 'red lines' – those areas where compromise would negatively impact on the quality of UK higher education. This means that higher education and research should not necessarily feature in all such agreements – particularly if evidence and analysis suggest this would be negatively impact on the quality and international competitiveness of the sector. But any decision not to include them should be reasoned and explicit.

This, in turn, means that government should engage deeply with representative bodies – in

the higher education sector as they would any other major export industry – and that, as a sector, universities must be well prepared for such conversations about how any prospective trade agreement might boost cooperation in higher education and research.

One potential advantage of engagement between government and the sector is that the presence of UK overseas branch campuses or TNE operations in many countries, and the extensive wider international networks maintained by UK institutions (for example through collaborative research or consultancy with business and industry), represents a potentially rich source of insight and intelligence on market access barriers and wider operational concerns that would be of value to government negotiators. This may help to uncover prospective negotiating issues or to gather contextual knowledge that is not only of relevance to the universities but also of general use in understanding the regulatory barriers which may face other services exporters in specific overseas jurisdictions.

With these points in mind, it is useful to consider the range of factors that should govern the UK's engagement with higher education in the context of future FTA discussions. UK higher education will need to invest substantial energy and focus to identify not only where the most promising opportunities for growth and collaboration may lie ('offensive interests'), but also those features particular to the UK system and its international operations which may need to be proactively defended ('defensive interests').

Note

⁵ <https://www.gov.uk/government/publications/international-education-strategy-global-potential-global-growth>

GENERAL PRINCIPLES TO UNDERPIN UK TRADE POLICY

Preserving quality and reputation

A key strength of HE in the UK is its reputation for quality. The UK government should protect this at all costs. This means ensuring that future FTA negotiations do not lead, for example, to compromises on the conditions for university status or degree awards in the UK, or to market access conditions abroad that can only be exploited by cutting costs and quality without clearly signalling that these were different from traditional UK degrees. In the former case, it is important to recognise that even if the UK government is not actively seeking to discuss HE in a particular negotiation and has therefore had little prior interaction with the UK HE sector about it, the negotiating partner may raise issues relating to market access and regulation.

Each partner is unique

Although it is possible to suggest some general guidelines, the negotiation of each FTA will be unique in its nature and in the case-specific constraints it faces. The UK government and sector may have general objectives, but these will have to be tailored to each case considering the conditions of the moment and the margins for manoeuvre.

To conduct tailoring effectively, the government will need clarity over UK higher education sector preferences and an understanding of the counterpart's position. The former requires detailed and ongoing consultation (that is, continuing dialogue between UK officials and sector representatives throughout negotiations, rather than a hard-stop and cessation of consultation activities after a given point). To get an idea of the latter, government and the sector should consider the counterpart's previous trade agreements (and negotiation processes) – both bilateral and multilateral via the WTO's GATS.

This should consider not only the structure and contents of previous agreements, but also their implementation, which typically requires detailed 'on the ground' information from

traders and local posts. As above, the UK sector's extensive global networks and long experience of international activities should be used as a resource by UK officials in this context.

Satellite activities

In negotiations, the HE sector should be conceived in its broad sense. Government should be aware of the direct interests not only of education providers themselves, but also those of affiliated sub-sectors and satellite activities, such as student recruitment, English language tests, digital infrastructures, and foundation or pathway education services. This complex ecosystem of services is all part of both the pipeline and the broader enabling environment for UK higher education. And evidence shows, educating foreign students in the UK entails substantial indirect economic benefits beyond tuition fees alone, which should form part of any calculus of costs and benefits.

Free trade agreements are just the first step

It is very unlikely that a trade agreement will bring immediate and direct operational benefits to the HE sector. An exception here may be the future trading relationship with the EU, where failure to reach an agreement on the trade in services may have an immediate and direct negative impact on the opportunities for UK institutions. The broad intentions of an FTA will almost always need to be translated into actions and agreements at a lower level, supported via political commitment and the deployment of adequate human resources by both countries to implement agreed follow-on activities.

One example would be a commitment to improve qualification recognition between the UK and a negotiating partner – requiring the subsequent formation of technical working groups, populated by suitable experts, the drafting of corresponding technical agreements, and agreement on a process for implementation. The FTA can establish political and official momentum and may even establish a commitment in principle towards an operational process – but much of the real work follows on behind. One implication of this is that the government (and the sector) on both sides

of the agreement must be prepared to invest substantial further resources in the process of liberalising trade in HE after the initial agreement has been signed and the press photographers have gone home.

It will be important to establish that there is indeed a firm commitment to execute such follow-on actions in the partner country – a key job for UK negotiators and diplomats, and one that may be particularly challenging in light of the number and pace of agreements being pursued by the UK.

Priorities

The UK's prospective negotiating agenda is unprecedented in its size and complexity. The UK has sought to rollover more than thirty existing FTAs (of which the UK is currently a member via the EU) as well as to strike meaningful deals with several new partners. In addition, of course, a trade agreement with the EU – quantitatively the most important of them all – remains to be finalised.

To engage with this agenda effectively, the HE sector will need to exercise precision in identifying the areas on which it wishes the government to focus. Overloading the negotiators is a sure-fire recipe for missing the target. There is a strong case for the HE sector to coordinate its requests and to deal in acceptable outcomes rather than ideal scenarios. While government may indeed wish to hear the views of individual higher education institutions for the purposes of balance, to demonstrate the efficacy of consultation processes, and to contribute granular detail, it would be extremely challenging for even the best intentioned of Departments to filter them effectively.

Hence, as well as the government needing a consultation process, one must also be established within the HE sector as well – so that it can go forward with a manageable ask of government, respond efficiently to new opportunities and negotiations, and effectively monitor progress as talks proceed.

This suggests a critical role for UUKi as a body to produce a synthesis of the primary issues of

relevance to UK HE in any given UK-overseas trading relationship, drawing on their sector networks and insights from individual institutions to produce clear asks for the UK government in markets where the sector has a particular interest.

Regulatory alignment and divergence with the EU

One possible constraint on FTA negotiation in HE, as in all sectors, may be the degree of alignment that the UK maintains with the EU, and this is yet to be agreed. However, all indications are that the UK government seeks divergence with no commitments made on alignment in services.

The EU uses collaborative programmes of higher education mobility and research collaboration to further international cooperation in an approach that is unique, and certainly quite distinct from that of any other potential future UK trading partner. Moreover, where EU trade agreements cover HE, they typically entail the smaller partner harmonising its standards with those of the EU. As a key partner in the development of those regulations and standards, there is little need for harmonisation – however, future divergence could create challenges for higher education and research cooperation in and with the EU. Thus, as the EU continues to negotiate new trade agreements – many potentially comprising commitments in HE or research – it will very likely expand the reach of European norms and approaches in these areas.

INITIAL VIEWS FROM THE UK HE SECTOR

This section sets out initial views from the UK HE sector on two crucial, connected questions related to the inclusion of higher education services in future UK FTAs, namely; with which countries should the UK seek to negotiate the inclusion of higher education, and what general issues related to the HE sector might the UK seek to include.

The views set out in this section have been drawn from a range of sources including the returns to the Universities UK International survey 'UK higher education and future trade agreements', follow up interviews that were conducted with senior managers, and previous UUKi commissioned research on trade policy⁶.

What to Include?

A key question for the sector and negotiators is what they should seek to include related to higher education in FTAs. Previous research into the inclusion of higher education in existing FTAs suggest that areas of higher education and research policy of potential relevance to future UK FTAs, or other forms of trade agreement, may include:

- collaboration in science, research and innovation
- the provision of education as a service (e.g. through jointly-delivered degree programmes, double degree programmes, campuses, joint schools, distance education, or other forms of transnational education)
- recognition of degree qualifications

- mobility of academic staff and students
- the right to use university title in overseas locations
- joint use of research facilities and scientific equipment
- and other regulatory issues.

A survey conducted by UKTPO for UUKi asked respondents about factors affecting their international activities in the following areas: non-EU student recruitment to the UK, research strategies and activities, regulatory constraints on data transfer, factors impacting on TNE and UK students abroad. Institutions were also asked about UK characteristics to maintain. The relatively low response rate (n=36) means that the findings below should be considered as provisional, indicative of institutional concerns and priorities rather than representative of a sector-wide position.

Non-EU student recruitment to UK

When asked about factors affecting students' willingness to study in the UK, the major concerns articulated were the UK's visa offer, the process of applying for a visa and the cost of doing so for students, predominantly postgraduate, who have dependents. It is not usual for these types of issues to be addressed in an FTA, however. The issue highlighted that may be relevant to an FTA is that of the mutual recognition of qualification, both professional and otherwise, which has significant impact on where students will consider studying a UK degree (in the UK or through TNE).

Note

⁶ <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/free-trade-uk-higher-education-brexite.aspx>

Research strategies and activities

Institutions reported few concerns or barriers related to research strategies and activities though we should note that this is not replicated for the EU: the possible lack of access to the Horizon 2020 and to EU funds in general was mentioned as a major concern several times in interviews and open questions.

The questions asked also focussed on barriers rather than potential opportunities and therefore these findings shouldn't be taken to suggest that there is not appetite from the sector to explore joint use of research facilities and scientific equipment.

Regulatory constraints on data transfer

Regulatory constraints on data transfer were not reported as a major issue for the HE sectors, with only one respondent finding them severe (with both EU and non-EU) and four others reporting moderate issues with non-EU partners. On the other hand, remaining aligned with the EU on GDPR is a policy on which there was strong agreement by most institutions.

Factors impacting on TNE

The most important factors impacting on TNE activities were reported as being the lack of clarity on the tax status of universities in certain territories, the taxation of overseas staff employed by UK institutions, and TNE qualifications not being recognised.

However, it should be noted that no factors scored particularly highly as impediments to the delivery of TNE. It is worth noting at this point that most of the survey respondents who submitted on behalf of their university were responsible for a broad international portfolio (as opposed to being TNE specialists), and so may not necessarily have had access to truly granular detail in this area of the institution's international activities.

The most prominent of the other issues mentioned in open questions were the perception of adverse attitudes and legislation towards TNE and the difficulties of repatriating monies out of host countries.

UK students abroad

When asked about factors affecting mobility, credit mobility came top followed by degree recognition and visa costs. The possibility to join research groups for short-term periods appears to be the issue of least concern for institutions.

Clearly, the assessment of whether outward student mobility activities link to specific 'barriers' (or are relatively trouble-free, at least with regard to systemic obstacles) will be highly variable dependant on the country of exchange and this may be reflected in the results obtained.

UK characteristics to maintain

The UK system has long been a global benchmark for higher education. When asked in summary what characteristics of the sector the government should seek to maintain, regardless of pressure from negotiating partners, the most commonly mentioned were research funding, participation to the Erasmus programme (or similar mobility programme) and ensuring the quality of the education service provided. There is no suggestion that these would be consciously compromised, but the sector clearly feels that their preservation should be an explicit constraint on whatever is negotiated under the rubrics of any FTA.

With which countries?

Another key question for the UK HE sector and UK trade negotiators is with which countries should the UK seek to negotiate the inclusion of higher education in FTAs? Whilst on the face of it a simple question, for several reasons, it is not one with a simple answer.

Firstly, as already alluded to, the answer will in part depend on the desires and intentions of the UK's negotiating partner. Whilst the UK may wish to pursue inclusion of education within trade negotiations, this may not be a priority for the partner – or vice versa.

Secondly, FTAs can be used not only to facilitate increased trade with existing partners but to remove barriers to allow for new trading partnerships to be created. For the HE sector, this means not only considering existing priority

markets but considering whether an FTA could result in the “opening up” of lesser explored markets currently.

Institutions suggest the immediate priorities for potential FTAs were considered to be China, India, United States and the Gulf countries.

Recalling from Winters and Tamberi (2017) that much can be achieved in HE through government-to-government and indeed sector-led initiatives outside the confines of free trade agreements⁷, the Department for Education, the Department for Business, Energy and Industrial Strategy and Department for International Trade could usefully consider supportive measures without diluting the (perfectly appropriate) focus on priority countries so far as FTAs are concerned.

Deciding what to include where

As previously highlighted, each partner is unique and therefore which barriers should be addressed with which countries is a central question.

Whilst generalisation is not helpful here, it is however instructive to consider the varying nature of UK HE collaboration with different groups of nations. For example, UK HE collaboration with high income economies tends to focus on developing existing research collaboration and student exchanges, whereas collaboration with lower- and middle-income countries tends to focus on TNE, student recruitment to the UK and building new research partnerships. As such it is perhaps

useful to surmise that barriers related to collaboration in science, innovation and research, the joint use of research facilities and mutual recognition of qualifications are more likely to be usefully addressed in FTAs with high income countries whilst regulatory barriers related to TNE, the mutual recognition of qualifications and a commitment to build research links are more likely to be significant where FTAs are sought with lower- and middle-income economies.

The UKTPO questionnaire invited institutions to name specific issues with a number of potential priority countries. A number of common patterns emerged. Again, India, China and the Gulf countries were mentioned the most, and they all have experienced issues with respect to the UK visa regime (although this is a problem shared by almost every institution for every country). Difficulties and lack of clarity in relationships with regulatory bodies were widely reported as a problem affecting activities in China, while for India, the prevailing official policy of not formally recognising the one-year UK master’s degree qualification represents a major impediment for UK institutions (and an obstacle for returning Indian graduates).

Finally, two regularly reported and significant problems were the recognition of online degrees and of degrees issued by overseas campuses. This may be conscious policy or merely that countries’ regulatory architecture is not set up to deal with innovative forms of delivery such as joint or dual programmes, distance learning, or articulation agreements.

Note

⁷ <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Pages/free-trade-uk-higher-education-brexid.aspx>

ADVICE ON THE TREATMENT OF HE IN FUTURE FTAS

It is clear that each FTA the UK negotiates will be different in nature and will require tailored input and attention from bodies such as UUKi, based on submissions from member universities. The UK's negotiating partners will differ so much in their own regulation and commitments that to attempt to set out generic interests will not typically be realistic or helpful – detailed objectives must be shaped on a case-by-case basis.

The following recommendations nonetheless set out some general principles. These imply a shared responsibility for UK universities' continued flourishing under a newly independent UK trade policy - based on high quality contributions from individual universities, careful prioritisation and consensus building through bodies such as UUKi, and active listening and consultation by UK officials.

- The UK higher education system's reputation for quality is hard-earned and should be protected at all costs. This means ensuring that future trade negotiations do not lead, for example, to compromises on conditions for university status or degree awards in the UK, or to market access conditions abroad that can only be exploited by cutting costs and quality. Even if the UK government is not actively seeking to include higher education in a negotiation, the negotiating partner may raise such issues as an 'offensive' interest – in such instances, there must be consultation with the sector to inform a response.
- Countries such as Australia have made use of FTAs to secure improvements in areas such as the overseas recognition of university qualifications, and improved operating conditions for transnational education (TNE). A UUKi survey of UK institutions carried out to inform this report suggests that UK institutions identify these areas – particularly improving conditions for UK TNE and recognition of qualifications internationally – would be among the main areas of interest if HE is to feature in future UK FTAs.
- UUKi should seek to establish consensus on both the 'offensive' interests (what the UK sector would like to secure) and 'defensive' interests (what the other party in the negotiation is likely to aim for – which the UK sector may not endorse) relevant to a given negotiation. The presentation of these issues must be tightly prioritised, recalling that UK negotiators will be dealing with a high volume of material and operating under pressure.
- In all instances, there can be no substitute for detailed research both on what UK universities see as the main challenges and on the partner's domestic regulation, commitments under the WTO GATS and past FTAs, and openness to using FTAs as a means of advancing policy in higher education and research. Not only the substance of the issues, but also the framing will be important – acknowledging differences in the conception of higher

education and research in different jurisdictions.

conditions which foreign governments set out for certain generic areas of doing business should be studied where these may apply to UK universities wishing to operate in that country. For example, legal requirements governing the proportion of local vs non-national appointees which may constitute a company board may be applicable to a UK HEI wishing to operate a branch campus or engaged in a joint venture with a local institution.

- Care should also be taken to consider the conditions not only for higher education providers themselves, but also those of affiliated sub-sectors and satellite activities, such as student recruitment, English language tests, digital infrastructures, and foundation or pathway education services. This complex ecosystem of services is all part of both the pipeline and the broader enabling environment for UK higher education.

Key principles to underpin HE sector consultation

Deep engagement with the sector, with the target country, and with other stakeholders must lie at the heart of government positioning.

In terms of key principles, UKTPO suggest the following:

- A consultation has to begin with an agreement between the UK and trading partner – negotiator to negotiator (government to government) – about the coverage of an agreement in broad terms, e.g. the chapters envisaged, issues/sectors which will feature. This then forms the basis on which the government invites submissions – from anyone wishing to provide one.

- In addition to higher education sector-specific provisions, the regulatory

- The government should be explicit that an FTA needs to satisfy broad national needs, not narrow sectional ones. Not all requests made in a consultation will be satisfied. In addition, the government should make facilities and possibly resources available to ensure that it actually hears hard-to-hear voices – for example, consumer groups rather than just producer groups. The HE sector is unlikely to need such help, but if the consultation appears to be open only to those who are well set up to express their views, it will lose much of its legitimacy in public eyes.

- The consultation will request very specific details and examples of the issues that hinder cooperation and trade with the partner countries, not mere generalities. The government would want to know what interested parties think would solve their problems, but not specifically how these would be plumbed into an FTA. The latter is something for negotiators. Australian officials have reported that they make it clear that the consultation is not intended to generate advice on the broad contours of Australian policy but on specific issues amenable to trade policy – for example, not on visa policy in general but on what changes for specific classes of academics or students would be helpful. This would be a useful emphasis to adopt in the UK.

- Consultation should be an on-going and two-way process; hence it is quite resource intensive for both parties. Australian experts report that their government encourages sectors to continue to meet and refine their priorities throughout the negotiation. In turn, negotiators travel and make efforts to feedback and talk to a range of stakeholders across Australia.

CONCLUDING REMARKS

A key part of the process of designing and then signing a free trade agreement is consultation. As the UK's negotiating agenda becomes more focussed, so too will the consultations required both between the government and the HE sector and within the HE sector as reflected to UUKi.

Most countries have established approaches to trade policy consultation – sometimes rooted in legislation, sometimes not – and we believe that the UK government should seek to establish their own approach as soon as possible so that the HE sector, and others, can understand the framework within which this will be carried out and prepare accordingly.

Effective consultation places burdens on both sides of the process – the government to lead, listen and learn, and then to provide information, and the interested parties (in this case UK HE) to assemble and clearly communicate useful advice in appropriate forms and at appropriate times, without seeking to capture the negotiation solely for sectoral gain.

The HE sector will need to be well organised to have maximum effect in trade policy consultations. While individual institutions may well wish to make submissions, a hundred

separate views are less likely to be persuasive than one balanced sectoral position. Moreover, given the need for meetings, follow up and monitoring, an individual approach will be both more costly and probably less effective.

Thus, sectoral bodies need to devise means by which they will assemble evidence and viewpoints from within their membership and then distil these appropriately to develop suitably representative sectoral positions.

One effective approach would be for UUKi to produce a synthesis of the primary issues of relevance to UK HE in a given UK-overseas trading relationship, to communicate this position to UK institutions via existing networks and distribution lists, and for individual UK institutions to complement UUKi's distillation with detailed submissions where they have a particular interest or expertise, for example, a major in-country presence. UUKi could also seek to convene expert working groups on UK higher education collaboration with relevant countries with which the UK is actively negotiating an FTA to gather sector input into negotiating priorities for the sector.