

TRADE POLICY AND STAKEHOLDER ENGAGEMENT MECHANISMS: A CALL FOR ACTION

I. Introduction

Following the referendum outcome of June 2016, and in agreement with Article 50 (3) of the Treaty on the European Union (TEU), the UK is set to leave the EU in March of 2019. International trade negotiations, formerly under EU competence, will be shifted back to the national level. It is now in the Government's interest to include the demands of relevant business stakeholders, such that the future UK trade strategy captures the needs and expectations of the British economic landscape. Businesses are of particular interest as they, will be directly impacted by any trade deal that is agreed upon between the UK and the EU.

Students from the Master of Public Administration at the London School of Economics were commissioned by the British Chambers of Commerce to run an in-depth analysis of the role that Stakeholder Engagement (SE) mechanisms ought to play in the negotiations of new trade policies. The following findings and recommendations are discussed in detail in the full report.

II. Taking stock of the *status quo*: UK institutional framework, procedures and stakeholder engagement performance

“Taking back control” of its trade policy will require the UK to determine new prerogatives across executive and parliamentary branches. Appendix A depicts the current dynamic between UK stakeholders, through additional interviews with business, NGOs, officials and academics we have identified a number of defining features of SE processes conducted in the UK:

a. From informal to formal:

There is a wide consensus that consultations are currently mostly based on *ad hoc* meetings, which “do not provide clear transparency”, according to one of the interviewees for this study, while representation is skewed towards big businesses that can afford participation costs and thus establish sustained relationships. It follows that a call for more formal and systematic procedures seems to be of significant interest, with “formal mechanisms [act] as a process of gathering intelligence and inform policy-makers”.

Many interviewees, however, do not call for an eradication of informal relationships, suggesting that a formal-informal zero-sum game is the wrong way approach to the matter. Formal mechanisms are presented as complements to informal, network-based discussions. Finding the right balance that ensures access to discussions and maintains one-to-one negotiation opportunities must be of concern to all parties involved.

b. Transparency: Enough or Too Little?

There is a general call for more transparency with access to, and digestibility of, information at its core. More must be done to explain to citizens the reasons why businesses and the Government ought to share information.

Several practitioners agree that more can be done, especially in terms of access to government reports. Indeed, white papers tend to be particularly “complex” and “technical”, which business officials may find “long and difficult to read”. Reports need to not just exist; they must also be “readable [:] 40-page documents are not going to be read”. Such reports include the publishing of impact assessments “prior to initiating trade negotiations” as well as afterwards for a full picture of true policy impacts.

c. Institutional Memory

Given that trade competences shifted to the EU over 40 years ago, there seems to be a lack of institutional knowledge in Government and businesses on how trade deals are negotiated – and how they were indeed negotiated in the past. Granted that trade “sits across a number of different departments”, cross-sectoral knowledge is key. Unfortunately, there is “a lack of experience, of “corporate memory”, in DIT in reality, because most people have not [drafted] trade policy [before]”. Considering this lack of experience, civil society engagement should arguably be reinforced: “getting the voice of business heard depends on how fertile the ground is: if policymakers have a genuinely open mind and they want to hear some views, then it’s easier to influence”.

III. Learning from other countries

To better understand what constitutes effective SE, a comparative cross-country assessment was run¹. Countries were analysed against four overarching variables viewed key to successful SE processes; structure of engagement, timing of engagement over the policy process, openness and government transparency, and levels of parliamentary scrutiny. It aimed to decipher successful mechanisms as well as failures, and questioned the extent to which engagement procedures applied abroad could be applied to the UK.

Chile and Mexico have rather *ad hoc* and informal SE structures. A key mechanism of interest is the “room-next-door”, which constitutes an innovative and effective way to include a limited number of stakeholders *during* negotiation rounds. **South Korea** is characterised by the extensive use of websites and provides feedback through formal meetings with relevant stakeholders, thus reinforcing informational feedback loops. The **United States (US)** presents the most statutory approach to stakeholder engagement, with laws determining committee structure and specific prerogatives. The **European Union (EU)**, while also moving towards more formal mechanisms, offers a wide breadth of initiatives. Representation and inclusion are primary objectives in the design of their Civil Society Dialogue mechanism and the recently introduced trade advisory group.

The comparative assessment enabled the identification of a ‘sweet spot’ for the design of SE mechanisms: to be effective, they ought to be *formal*, preventing capture by special interests (e.g. large corporations), and *flexible*, using guidelines for the design of engagement structures rather than rigid laws – allowing adaptation over time and some degree of discretionary interpretation (see Appendix B). Countries depict various degrees of engagement over the policy cycle, while Chile and Mexico’s “room-next-door” mechanism is the only one involving stakeholders *during* negotiations (see Appendix C).

In light of demands for more transparency in the UK, the comparative assessment offers various solutions: guidelines on the provision of digestible evidence; wide accessibility of information through the use of websites (infographics, videos and social media); and impartial channels such as the EU Ombudsman or the US Chief Transparency Officer to ensure high levels of transparency.

¹ Chile, the EU, Mexico, South Korea and the United States were analysed

IV. Policy Recommendations

Building onto the UK institutional framework and the comparative assessment, the report proceeds to make six policy recommendations that will enhance the efficiency and legitimacy of SE mechanisms in the realm of the UK's trade policy.

1. Formal SE Grounding Delegated to the DIT

'Minimum engagement standards' must have a statutory footing; that is, be written in law. Additionally, this report advises the publication of formal guidelines by the DIT on timing, as well as forms and levels of inclusion. This statutory-guideline approach strikes an adequate balance between formality and flexibility, enabling mechanism adaptation over time. This trade-off further prevents the capture of mechanisms by high-resource special interests.

2. Set-up of a Formal and Flexible Committee Structure: The "Trade Strategy Advisory Board (TSAB)"

A committee focused on expertise and representativeness ensures targeted engagement at all stages of trade negotiations. The TSAB ought to be granted with discretionary powers to create sub-committees for further expertise/consultation. Selection processes will be transparent and systematic, with specific guidelines published.

3. Enhancing Civil Society Dialogues

Inclusion of all relevant stakeholders will be ensured the implementation of Civil Society Dialogues (CSDs), in light of the EU's initiative. Early advertisement, widespread inclusion and access to relevant information through meetings and ICTs are advised.

4. Structured use of online consultation

The structured use of online platforms to collect and evaluate feedback *ex ante* and *ex post* fosters feedback loops, and provides a basis for constructive dialogue in the UK. Guidelines ought to be published to specify target audiences, procedures, and discussion scope. All elements (questionnaires, evaluations, feedback) ought to be made accessible to civil society at large.

5. Creating a "room-next-door" mechanism in trade negotiation

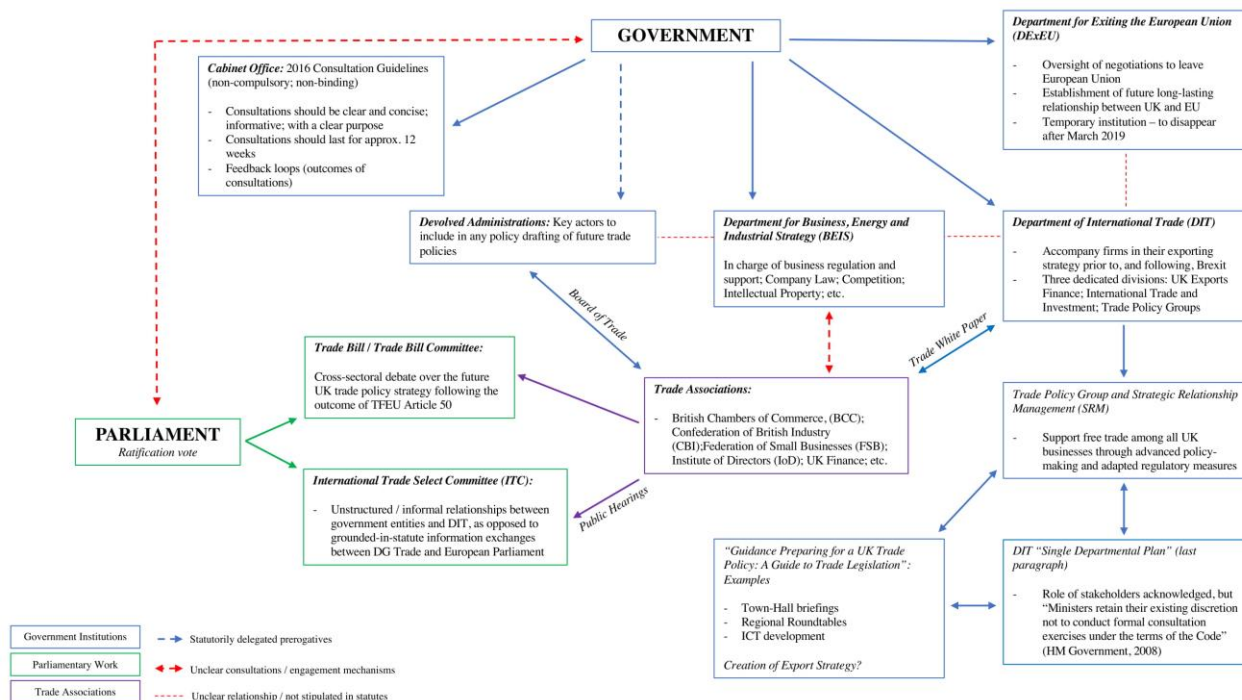
The UK adaptation of this successful mechanism in Chile and Mexico enables instantaneous inclusion of expertise *during* negotiations. The frequent revision of membership/selection procedures will mitigate risks of interest-group capture, while the list of participants must be made accessible to the wider public. At the same time, Non-Disclosure Agreements (NDAs) could be of use to retain some form of confidentiality over sensible information.

6. Transparent negotiations through evidence-based reports and enforcement

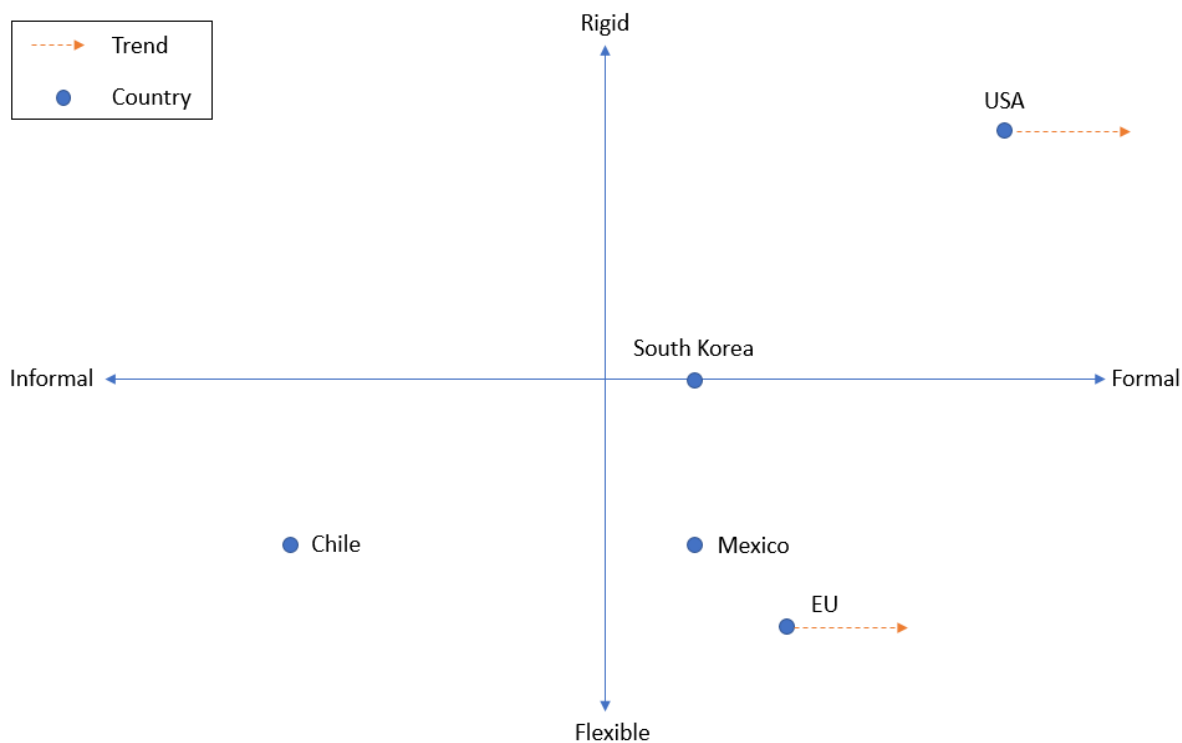
- i. *A database with evidence/reports by government agencies* provides stakeholders with information at all stages of the policy process. The database will allow for the centralisation of all relevant information;
- ii. *An independent body to ensure transparency on trade-related matters* is advised, following the initiatives of the EU and the US. It will improve information flows, increase satisfaction and participation, and enable efficient resolution of transparency concerns;
- iii. *Parliament-Executive relationships ought to be formalised* such that another channel of communication exists for trade associations to introduce their concerns and demands. Guidelines that outline such relationship, including timing of engagement, minimum notification periods, and representative consultations both before and after negotiations are recommended.

V. Appendices

Appendix A: An Institutional Map of Stakeholder Engagement Mechanisms in the UK



Appendix B: An Engagement Mechanism 'Sweet Spot'



Appendix C: Stakeholder Engagement Over the Policy Cycle

