

A comparison of the UK's objectives for trade deals with the US and EU



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This table compares the UK's published negotiation objectives for trade deals with (A) the EU and (B) the US, looking at various 'trade justice' related issues. The third column analyses any points of interest or notable differences between the two.

Both these trade deals are stated priorities for the UK government in the year ahead. The EU-UK deal is supposed to be completed before the end of the implementation period (scheduled for the end of December 2020). The US-UK deal has no such deadline, though both sides have emphasised a shared desire to conclude a deal quickly. However, political obstacles on the US side, including the upcoming election, might delay this. Since March 2020, both countries' response to the Covid-19 outbreak is likely to significantly slow things down.

The Trade Justice Movement is coordinating civil society's response to the UK's new trade agreements, and these deals are a high campaign priority. As the table makes clear, the deals have the capacity to touch on a wide range of social, environmental and human rights, and approaching these deals in the right will be essential for making sure that trade works for people and planet.

Policy area	(A) Objectives with the EU	(B) Objectives with the US	Notes
Goods	Removal of all tariffs and quotas on 'manufactured and agricultural goods', but not frictionless trade as the UK insists on leaving the EU's common rulebook on goods regulation.	Aims to "secure broad liberalisation of tariffs on a mutually beneficial basis, taking into account UK product sensitivities, in particular for UK agriculture", and ensure "comprehensive access for UK industrial and agricultural goods into the US market through the reduction or elimination of tariffs"	On paper this looks quite similar for both deals, but in practice the UK relies far more heavily on goods trade with the EU than with the US - particularly cross-border trade in fresh produce and products for 'just in time' manufacturing. It is therefore far more important to secure frictionless trade with the EU than with the US.
Services	Seeks liberalisation in services, which is generally seen as a priority for the UK, particularly in financial services. Does not seek an extensive or meaningful	Repeatedly states that "The National Health Service (NHS) will not be on the table. The price the NHS pays for drugs will not be on the table. The services the NHS provides will not be on the table. The NHS is not, and	Both the EU and US deals could lead to liberalisation of public services. Although the US is seen as the bigger threat, due to existing levels of public service liberalisation in the US and the US's clearly stated

	<p>carve-out for public services. States that carve outs should be “limited” and “justified”, “such as for services in the exercise of governmental authority.” This is narrower than the EU’s language of “services for the General Interest”, and would not cover many UK health services.</p> <p>It is not clear whether the UK wants a positive or negative list. States that “both sides should provide a transparent schedule of their commitments against these obligations,” which could imply a positive list. But also “the baseline for the negotiation on schedules should be both parties’ best offer to date.” The ‘best offer to date’ would probably be CETA, which uses a negative list.</p>	<p>never will be, for sale to the private sector, whether overseas or domestic.” Also protection for “public service broadcasters”, i.e. the BBC.</p> <p>“Agree best-in-class rules for all services sectors”, particularly “financial services, professional and business services and transport services.”</p> <p>On public procurement: “Ensure appropriate regard to public interests and services, including the need to maintain existing protections for key public services, such as NHS.”</p> <p>There is also unusual phrasing on <i>regulation</i> of public services, including the NHS and public service broadcasters: “Continue to ensure that decisions on how to run public services are made by governments, including the devolved administrations (DAs), and not our trade partners.”</p>	<p>objectives, for example in terms of access to NHS procurement of medicines,, the UK makes stronger assertions regarding protection for the NHS (and the BBC) in the US objectives, than in the EU objectives which could mean that liberalisation of public services via the EU deal could slip by under the radar.</p> <p>This difference in language, however, may have more to do with negotiation strategy than differences in intent: the US is more likely to push for services liberalisation, so the UK’s wording on NHS protection is deliberately stronger. The UK has traditionally sought to go further than most other EU countries in terms of services liberalisation and this is reflected in its objectives.</p> <p>It is clearly a priority for the UK, in both deals, to seek arrangements for financial services.</p>
Environmental policy	<p>Refuses to agree to binding minimum environmental standards by agreeing a Level Playing Field. States that environmental standards should not be weakened “in order to encourage trade or investment” but this is difficult to prove, and therefore this is a much weaker commitment than those demanded by the EU in the Level Playing Field provisions. Asserts the right to modify domestic environmental laws as it sees fit. Demands that the chapter is non-binding, i.e. not subject to hard dispute settlement.</p> <p>Chemicals: states that there are “separate</p>	<p>Desire to “futureproof the agreement in line with the Government’s ambition on climate”</p> <p>“Ensure parties reaffirm their commitment to international standards on the environment.” No mention of Paris Agreement.</p> <p>“Ensure parties do not waive or fail to enforce their domestic environmental or labour protections in ways that create an artificial competitive advantage.” - the focus here is very much on the trade impact of climate policy, rather than the environmental impact.</p>	<p>In both mandates the UK is keen to affirm its commitment to environmental ambitions, but is short on detail and enforceability. Neither mandate mentions the Paris Agreement, although the US one does mention the net-zero target and the need for dispute settlement to ensure enforceability.</p> <p>It is difficult to see how meaningful action on this is possible when US negotiators have asked that climate change is not mentioned in the deal (revealed in leaked papers last year). However it is somewhat encouraging that the UK continues to include some references to climate and net zero despite</p>

	regulatory requirements” between the UK and EU.	Mention of net-zero target: “Secure provisions that support and help further the Government’s ambition on climate change and achieving Net Zero carbon emissions by 2050, including promoting trade in low carbon goods and services, supporting research and development collaboration and maintaining both parties’ right to regulate in pursuit of decarbonisation.”	this clear request from the US. In both mandates, the emphasis is on maintaining standards so as not to lead to unfair competition. However, this ambition seems inconsistent with refusing to adopt a Level Playing Field with the EU.
Food and health standards	<p>Sanitary and phytosanitary (SPS) measures: desires a “risk-based approach”, “in line with scientific evidence”, which could signal a move towards weaker US-style regulation rather than EU’s precaution-based regulation. States that “the UK will maintain a robust SPS regime reflecting our existing high standards.” There is no mention of the precautionary principle anywhere in the document.</p> <p>Seeks an “equivalence” mechanism for SPS measures, which is a lower level of commitment than aligning with the EU. Repeatedly, the main example provided is CETA, but in this case also the EU-New Zealand Veterinary Agreement.</p> <p>Animal welfare / AMR: seeks joint committee, “to cooperate on preventing AMR and raising global animal welfare standards.”</p> <p>Medicines: wants “mutual recognition of certificates of Good Manufacturing Practice (GMP) compliance” and “acceptance of batch testing certificates” as in CETA.</p>	<p>SPS: states that a deal must “not compromis[e] on our high environmental protection, animal welfare and food standards” and must “uphold the UK’s high levels of public, animal, and plant health, including food safety.”</p> <p>Otherwise various references to enhancing access to US markets for UK agri-food industry.</p>	<p>Although the US deal is seen as the bigger threat to food standards, it is in the mandate for the EU deal that the UK talks about using a ‘science’-based approach to SPS measures, which could signal a pivot towards US-style regulation, away from the EU’s precautionary principle.</p> <p>In the US deal mandate, the UK says very little beyond vague commitments to uphold standards. It does not, for instance, commit to refusing imports of goods made using practices banned in the UK, such as chlorinated chicken, hormone-fed meat or harmful animal welfare practices.</p> <p>The emphasis in the US mandate is on the opportunities for UK food exporters and farmers, who are undoubtedly concerned about being undercut by US agri-business.</p>
Regulatory cooperation	Desire to “promote principles of good regulatory practice when setting technical	Desires to “seek arrangements to make it easier for UK manufacturers to have their	There is a clear pattern and consistency between the UK’s mandates on regulatory

	<p>regulation, to ensure it is not more trade-restrictive than necessary”, though this is vague and short of regulatory harmonisation, which could lead to disruptive trade barriers. Repeated mention of “transparency”, which in this context refers to parties alerting each other to upcoming regulatory changes. This can slow down the introduction of new regulations.</p> <p>Seeks mutual recognition of conformity assessments as good as those in CETA.</p> <p>‘Equivalence’ is requested for some technical regulations: “It should establish a framework for either party to request that the other consider its technical regulation to be equivalent to its own regulation.” This is a lower level of commitment than harmonisation.</p>	<p>products tested against US rules in the UK before export.” and “promote the use of international standards, to further facilitate trade between the parties.” International standards arguably provided a low baseline for cooperation.</p> <p>Wants “world class levels of transparency... particularly with regards to the publication of measures (such as laws and regulations) affecting trade and investment”, and a commitment to “prompt and open information sharing... by setting up regular data sharing to support understanding of the usage and effectiveness of the agreement”,</p> <p>A lot of this sounds like typical ‘Good Regulatory Practice’, which is to do with informing the other party about upcoming regulatory changes.</p>	<p>cooperation.</p> <p>With the EU, the UK wants less cooperation, moving towards a weaker ‘equivalence’ model where technical regulations are approved on an ad-hoc and discretionary basis, rather than through enshrinement in a common rulebook (as would be the case in the Single Market, or the short-lived ‘Chequers’ proposal for goods trade).</p> <p>With the US, the UK wants to extend what is known as ‘Good Regulatory Practice’, which means a formal process for alerting each party to upcoming regulatory changes, with maximal transparency and predictability. This could have the indirect effect of leading to convergence between each party’s regulations, and also may slow down improvements in the UK’s environmental and other regulation if US regulators are allowed to delay and comment on UK regulations.</p>
Labour rights	<p>Refuses to agree to binding minimum labour standards by agreeing a Level Playing Field. States that labour laws should not be weakened “in order to encourage trade or investment” - this is difficult to prove, and therefore this is a weaker commitment than those demanded by the EU in the Level Playing Field provisions. Also desires that trade and labour provisions should be non-binding, i.e. not subject to hard dispute settlement.</p>	<p>Desire to “ensure high standards and protections for UK consumers and workers and build on our existing international obligations.” US obligations on labour rights are significantly lower than those of the UK, including failure to ratify a number of ILO conventions and concerns raised by the ILO in terms of union rights and the rights of migrant workers.</p> <p>Also mention of women’s economic empowerment: “Promote women’s ability to access the benefits of the UK-US agreement in recognition of the disproportionate barriers that women can face in economic participation.”</p>	<p>Labour rights are covered by the EU’s demands on Level Playing Field provisions. The UK wants a weaker arrangement, where labour rights are only of relevance to the deal if parties use them to seek unfair competitive advantage, a condition which is extremely difficult to prove and would not cover many classes of workers, i.e. those not working in export industries.</p> <p>There is nothing substantial on labour rights in the US deal mandate.</p> <p>The statements on women’s economic empowerment are weak and fail to take on board recent analysis of the impact of trade</p>

			deals on women.
Investment	<p>No explicit mention of ISDS, but states that “both sides should schedule their commitments against these obligations in a way that provides a clear and predictable basis upon which EU businesses can invest in the UK, and UK businesses can realise investment opportunities in the EU. The baseline for the negotiation on schedules should be both parties’ best offer to date.” If the “best offer to date” is CETA, this could mean some form of ISDS.</p> <p>The EU tends to insist on its own Investor-Court System (ICS) as an alternative to ISDS. The UK may not want to partake in an EU court system. This could mean talks on ISDS break down.</p>	<p>No explicit mention of ISDS, but hints at it. Desire to “agree rules that ensure fair and open competition, and address barriers to UK investment across the US economy. Establish comprehensive rules which guarantees UK investors investing in the US the same types of rights and protections they receive in the UK, including non-discriminatory treatment and ensuring that their assets are not expropriated without due process and fair compensation.” This sounds very much like what ISDS is designed to combat, although the objectives also state: “Maintain the UK’s right to regulate in the national interest and, as the Government has made clear, continue to protect the NHS.”</p>	<p>The UK seems to be deliberately playing it carefully on ISDS in both mandates. The government knows that ISDS is politically controversial domestically, and also that both the EU and the US have their own preferred systems for investor protection, (the Investor-Court System (ICS) and Multilateral Investment Court (MIC) in the case of the EU, and the US model investment treaty and new USMCA chapter). As for the US deal, the UK will be aware of how ISDS has been used offensively by US companies in other deals, for example against Canada in NAFTA. However, stating a firm red line on ISDS at this (or any) stage may hinder their ability to get a deal.</p>
Digital services	<p>Regulation of digital trade should “lock in regulatory certainty, while preserving the UK’s regulatory autonomy.”</p> <p>This could be understood as saying that our regulation of data and digital services will not be allowed to develop further than it already has. This would restrict the government’s ability to regulate technology firms, ensure better sharing of data-based wealth, and protect citizens from online harms (including discriminatory algorithms or unsafe content).</p>	<p>Desire to “Secure cutting-edge provisions which maximise opportunities for digital trade across all sectors of the economy. Include provisions that facilitate the free flow of data, whilst ensuring that the UK’s high standards of personal data protection are maintained, and include provisions to prevent unjustified data localisation requirements.” This last provision would prevent governments from being able to demand that data is held domestically.</p> <p>Various other mentions of digital trade, including no customs duties on electronic transmissions.</p>	<p>Digital trade is a big priority for the UK. Both mandates contain statements which could limit the UK’s ability to regulate digital technologies, going beyond the existing (and concerning) digital chapters in other recent trade deals.</p> <p>The stance against data localisation in the US deal mandate is particularly noteworthy. This is controversial as it would prevent the government from demanding that data is held in UK territories, even if that were important from a national security or data rights perspective.</p>
Intellectual property	<p>Seeks a strong IP chapter that extends protection beyond what is required by TRIPS and WIPO. Seems to be deliberately</p>	<p>Desire to protect UK IP and mentions not allowing IP to provisions to “lead to increased medicines prices for the NHS.”</p>	<p>It is not clear how the UK will ensure that medicines prices are safe from the US’s demands on intellectual property. It is also</p>

	provocative on Geographical Indicators, saying there are many ways forward. GIs are a key area for the EU.	Hint at some departure from existing (EU) approach to GIs: "Maintain effective protection of food and drink names in a way that reflects their geographical origins, getting the balance right for consumers to ensure they are not confused or misled about the origins of goods, and have access to a competitive range of products."	not clear how this fits with the UK's ambition to extend IP protection in the EU deal beyond that required by TRIPS and WIPO. Extending IP protections for EU firms while refusing this key priority to the US seems an unlikely strategy that may not survive the negotiations.
Dispute settlement	The European Court of Justice (ECJ) and EU legal order "must not constrain the autonomy of the UK's legal system in any way". Nor should it involve a role for the ECJ in disputes. Finally, the agreement should not require the UK to continue participation in the European Convention on Human Rights (ECHR).	"Establish appropriate mechanisms that promote compliance with the agreement and seek to ensure that state to state disputes are dealt with consistently, fairly and in a cost-effective, transparent and timely manner whilst seeking predictability and certainty for businesses and stakeholders." (very generic) Interestingly, there is mention of dispute settlement in relation to the environment: "mechanisms for the implementation, monitoring and dispute resolution of environmental and labour provisions."	With the EU, the key line is that the ECJ must not be the ultimate authority on dispute resolution. The EU will undoubtedly insist that the ECJ is involved in some way, particularly whenever there is interpretation of EU law involved. In the US deal dispute settlement is likely to look more similar to average trade agreements, though it is somewhat interesting that the UK mentions mechanisms for enforcing environmental and labour provisions, which have weak enforceability in EU deals but stronger provisions in US deals.
Democratic scrutiny	The objectives make no reference to scrutiny. The Government previously proposed a fairly comprehensive process of Parliamentary scrutiny for the EU-UK relationship in the original EU Withdrawal Agreement Bill (WAB). However in the new version of the Bill, which passed after the election, all of these provisions were removed. This means MPs will not get a guaranteed vote on the final deal, there will be no regular updates, and there was no vote on the objectives.	The objectives make no reference to scrutiny. The Government has not promised any votes or debates. There was a statement of the objectives in the Commons (announced at very short notice), and we do not expect any regular updates to the House. The Government has not brought back the Trade Bill yet, but even when it does, it is not expected that there will be any new provisions on scrutiny.	As has been noted, UK democratic representatives will have less say over these trade deals than their counterparts in the US and the EU.