

TJM's ten tests for the future EU-UK relationship



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TJM has compiled these tests to assess any future agreement between the EU and the UK, ahead of discussions on EU-UK relations at the European Council meeting on 15-16 October.

1. Enables positive action on the environment and maintains freedom to regulate

The deal must be assessed against its contribution to achieving climate and environmental goals. The precautionary principle and other existing safeguards must be maintained as part of the right to regulate. Provisions including those on local content, subsidies, intellectual property and agriculture should only be included if it can be demonstrated that they will not hinder progress in these crucially important areas. Regulatory cooperation must not be used to lower standards or give privileged access to corporations.

2. Protects public health and the NHS

The NHS must not be included in a trade agreement, directly or indirectly, including through measures which lock in or extend existing privatisation and contracting out. A deal must not undermine access to medicines through weakening price regulation schemes and strengthening intellectual property rights, and must not undermine the Government's ability to regulate private ownership of patient data. Public health measures must not be put at risk as a result of a trade deal.

3. Protects public services

A deal must not lock-in privatisation of public services. A positive list must be used in any service chapter, with effective carve-outs for public services. Standstill and ratchet mechanisms, which are not contained in EU law but are increasingly contained in free trade agreements, require countries to maintain or increase their level of 'market openness'. They should be excluded from the future UK-EU relationship because they would limit the choices available to government for delivering public services. Provisions on services must not undermine efforts to achieve gender equality: privatisation can have a particularly detrimental impact on women, who form a significant percentage of workers in many public services, as well as relying more heavily on services because of their disproportionate share of unpaid care work.

4. Protects labour and social rights

Existing trade deals contain no binding or enforceable provisions to ensure they do not have negative consequences for labour and social rights. This could lead to downward pressure on UK standards. The UK-EU future relationship must be designed to increase good quality jobs and real wages, and to uphold and promote labour rights. Other social rights, including

gender equality, discrimination law, political liberties and human rights must also be safeguarded.

5. Is subject to democratic scrutiny and consent

The UK government must urgently bring forward primary legislation setting out clear and binding processes for the involvement of the public, civil society and Parliament in trade negotiations. This must include thorough impact assessments, in both the UK and trading partners, covering social, environmental and human rights as well as GDP impacts, a role for Parliament and devolved administrations in setting the negotiating mandate, transparency during negotiations, a vote for Parliament on the final deal and mechanisms for regular review of implemented trade deals.

6. Builds a digital economy based on shared rules to protect workers and consumers

The challenges associated with e-commerce, artificial intelligence, source code and algorithms are only just beginning to be understood. In this context, governments must retain the ability to shape their policies to respond to increased understanding and new developments in the digital arena. A digital chapter in an EU-UK deal could weaken existing data protection laws and limit the Government's ability to regulate technology firms and make important policy decisions about the privacy, safety and accountability of digital systems.

7. Protects sustainable development and international commitments

The UK should design its trade policy to fulfil its international commitments and to have positive benefits for developing countries. This includes measures to actively contribute to the Sustainable Development Goals, and obligations under the United Nations, International Labour Organisation and World Health Organisation.

8. Excludes harmful corporate courts

A deal must not include Investor-State Dispute Settlement (ISDS) mechanisms, which would allow international investors to sue the UK Government for introducing policies that corporations believe could harm their profits. ISDS has historically been used to challenge important environmental, health and labour legislation, and it has no place in UK trade policy.

9. Allows public procurement to benefit local communities and wider society

The deal must maintain national and local government's ability to use public procurement to support local economies and jobs, living wage, kickstart a climate transition and enable other public policy objectives such as healthy eating in schools and hospitals. Public procurement must include existing social provisions for the wider public interest where considerations of quality and social value are given equal weight over considerations of price in service delivery to prevent the race to the bottom. Government procurement is an important tool for helping to achieve social and environmental ambitions.

10. Pursues a race to the top on food standards

The government's goal must be to achieve a sustainable model of food production and consumption, promoting biodiversity and carbon neutral, high quality food. To achieve this, existing high animal welfare and environmental standards must be maintained in domestic legislation and all food imports must meet these standards.