

Key issues in UK trade policy post-Brexit

- Trade and investment deals have a huge impact on almost all aspects of daily life, from healthcare to the environment and climate policy, jobs and workers' rights.
- Modern trade negotiations tend to be less concerned about trade in goods because tariffs and other trade taxes are already very low.
- Instead, much of the focus is on what trade negotiators call 'non-tariff barriers': what most people know as the regulations and standards that societies have developed democratically, including things like pesticide regulations, food safety standards, air pollution limits or banking regulations.
- Increasingly, negotiators also seek to include in trade deals new areas such as services, investment, government procurement and intellectual property rights.
- Because trade deals have such a pervasive impact, it is vital that people have a say in their design, and that trade policy is properly scrutinised by parliament. Yet trade deals are negotiated behind closed doors and UK processes for scrutiny of trade agreements are extremely weak.

What is a trade deal?

A trade deal is an agreement between two countries which sets out the rules that they will follow when they trade with each other. These rules cover trade in goods – usually reducing the border taxes (tariffs) that companies have to pay when the export from one country to the other. However the main focus of modern trade deals are the rules that govern 'trade' in a range of other areas, including:

- Services – where a company from one country invests in the services industries (from health and water services to telecommunications and banking) of the other;
- Investment – the protections that are afforded to companies or individuals from one country when they invest money in the other country;
- Government procurement – this usually means that the negotiating parties make a commitment to

allow companies from the other country to bid for local, regional or national level government contracts for, for example, the provision of IT services;

- Intellectual property rights – usually providing high levels of protections for patents for industries such as pharmaceuticals.

Bilateral (between two countries) and plurilateral (between several countries) trade deals are required to go further than the agreements that already exist under the World Trade Organisation (WTO). The WTO sets out a number of objectives that have far-reaching implications for social and environmental goals. For example, it requires that standards must be “no more trade restrictive than necessary to fulfil a legitimate objective” and must not “have the effect of creating unnecessary obstacles to international trade”. Both of these requirements set the bar very high for governments to prove that their regulations have ‘legitimate objectives’ and that any obstacles to trade are ‘necessary’.

Trade deals are both binding and enforceable, with clear mechanisms set out for dispute resolution. This takes the form of either state-to-state dispute resolution, where disputes are resolved through government diplomacy, or investor-to-state dispute resolution, where a company has the right to directly take a case against a government.

What does this mean in practice for...

The environment and climate

Trade negotiations and the resulting trade deals can place significant limitations on governments’

abilities to introduce measures to protect the environment or tackle climate change. Trade rules:

- Allow energy companies to use private courts to sue governments if they attempt to introduce policies intended to reduce the use of fossil fuels;
- Allow governments to challenge each others’ initiatives on climate and the environment through state-to-state dispute settlement mechanisms.



Countries including Canada, India, China and the US have been challenged through the WTO for measures they have introduced to support their renewable energy industries;



- Contain at best weak language to protect environmental or climate measures, usually stating that parties to the deal will “take account of”, “promote” or “have regard to” environmental and climate policy – these chapters in trade deals are generally neither binding nor enforceable, making them largely ineffective.

Public services

Trade agreements now routinely contain chapters on services, building on the WTO’s ‘General Agreement on Trade in Services’ (GATS). Under GATS, countries chose which service sectors they wanted to liberalise (open up to international competition) and listed them in the deals. However there is an increasing trend towards a ‘list it or lose it’ approach, which means that all service sectors are included, unless the country explicitly excludes them (the so-called ‘negative list’ approach). Deals also increasingly include a ‘ratchet clause’ which means that liberalisation and privatisation of a service cannot be reversed, with significant penalties for any governments that try to do so.

Although on paper the trade deals sometimes pay lip service to the right of governments to run public services, the definition of what constitutes a ‘public service’ is often very narrowly defined, applying only when there is no competition (where the government is the sole provider) – this is not the case for the NHS, for example.

Food and farming

Trade deals can impact on food and farming in two main ways. The first is through potential reductions in tariffs. Tariffs on agricultural products still remain relatively high. Countries like the US, Australia and New Zealand are high on the UK’s list of priority countries for trade deals. All of these countries would like to see the UK reduce agricultural tariffs, with potentially devastating impacts for UK farmers who would face increased competition.

The second area that can impact on food and farming is the inclusion in trade deals of provisions on regulations. This can take the form of ‘mutual recognition’ whereby participating countries agree to recognise each others’ standards as equivalent to their own, even when there are significant differences. This has been hugely controversial in negotiations for a deal between the US and EU (TTIP) because of significant differences in their approaches to processing for example meat products. The risk of including provisions on regulation in trade deals is that it can lead to downward pressure on environmental or health and safety regulation where less stringent regulations mean imported goods are cheaper.

The global south

The EU has pushed countries in the global south to agree to trade deals that go beyond what they feel ready to negotiate on. For example the EU has tended to demand extensive reductions in tariffs, which can have a negative impact on industries that do not have the advantages of those based in the north (such as government finance for research and development, subsidies or high-quality infrastructure). It has also sought to include issues that Southern countries don’t feel ready to negotiate on, including investment protection, government procurement and competition rules. This ‘one-size-fits-all’ approach to trade can threaten progress towards achieving the Sustainable Development Goals (SDGs).

What can we do about this?

Current processes for developing trade deals in the EU and the UK are highly secretive – not even politicians have full access to negotiating texts. The UK’s arrangements for public and parliamentary engagement with and scrutiny of trade are woefully inadequate. This leads to badly designed deals that are not in the interest of people and planet.

UK processes for the development and scrutiny of trade policy need urgent reform before full Brexit occurs. Without this, it won’t be possible to ensure the UK’s post-Brexit trade policy is designed to support social and environmental goals. The first step in ensuring this happens is for negotiations to happen in a way that is fully transparent and democratic.

Contacts



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