

How the U.S. Should Respond to the U.K.'s Negotiating Objectives for a Free Trade Agreement

Ted R. Bromund, PhD

KEY TAKEAWAYS

The U.K. is determined to reject protectionism and to negotiate free trade agreements with like-minded democracies, including the U.S.

The U.K. and U.S. view negotiation of a free trade agreement as a strategic opportunity to strengthen the Special Relationship and enhance economic prosperity.

The U.S. should act quickly to negotiate an ambitious and comprehensive agreement with the U.K.—with special emphasis on services and digital trade.

The governments of both the United Kingdom and the United States have repeatedly signaled their commitment to the negotiation of a free trade agreement. With the United Kingdom's exit from the European Union on January 31, 2020, it is possible to look forward to the start of negotiations for this area. Though the COVID-19 pandemic delayed the start of negotiations to May 5, 2020, both the U.K. and the U.S. demonstrated their willingness and readiness to negotiate by publishing their objectives for a U.S.–U.K. free trade agreement.

The U.S. published its objectives for these negotiations over one year ago, in February 2019. The U.K.'s publication of its objectives on March 2, 2020, marked an important milestone on the path toward the conclusion of an ambitious and comprehensive free trade agreement between the U.K. and the U.S. The U.K.'s negotiating objectives set out the strategic

This paper, in its entirety, can be found at <http://report.heritage.org/ib5069>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

case for a free trade agreement, as well as offering an official estimate of the gains to be had from the negotiation of an agreement. Taken with the U.S.'s own objectives, the U.K.'s objectives offer a firm basis for optimism about the rapid negotiation of a major free trade agreement between the United Kingdom and the United States.

The U.K.'s Strategic Case for a Free Trade Agreement

Importantly, the U.K.'s objectives make the strategic case for a free trade agreement not just with the United States, but as a wider British goal. As the U.K. notes in their first line, the "UK will be a champion of free trade and will seek Free Trade Agreements (FTAs) with like-minded democracies."¹ In this context, which clearly sets out the U.K.'s determination to reject protectionism and to engage in trade negotiations with democracies around the world, Britain's decision to pursue a free trade agreement with the United States is a natural and reasonable reflection of its wider trade and foreign policy goals.

The U.K.'s statement of its objectives also makes clear, however, that Britain's relationship with the U.S. is unique, and that a free trade agreement between the U.K. and the U.S. would be a natural development and deepening of this relationship. As the U.K.'s objectives state, "An FTA represents a strategic opportunity to augment and codify our strong trade, investment and economic relationships, bringing us closer to our largest bilateral trading partner and the world's economic powerhouse."² The U.K. is correct to see a free trade agreement with the U.S. in this wider context, as such an agreement would further institutionalize and solidify the Special Relationship between the U.K. and the U.S.

The Projected Gains from a U.S.- U.K. Free Trade Agreement

In its negotiating objectives, the U.K. makes an effort to quantify the gains to be had from a U.S.-U.K. free trade agreement. The validity of this effort obviously depends on the precise terms of the agreement as it is finally negotiated. Moreover, because efforts to assess the effects of free trade tend to undervalue its benefits, it is likely that the U.K.'s objectives are minimizing the value of an agreement. Nevertheless, the U.K.'s effort offers a valuable, though limited, assessment of the financial value of a projected agreement with the U.S.

Because tariffs on trade between the U.S. and the U.K. are already relatively low, the gains from reducing them to zero—which should be the goal of a free trade agreement—while significant, are not overwhelming. The U.K. estimates that an agreement with the U.S. would, in the long run, increase trade between the U.S. and the U.K. by approximately £15.3 billion, or roughly \$19.2 billion.³ Given that total trade between the U.S. and U.K. in 2018 was valued at \$261.9 billion, the U.K. is therefore projecting an increase in the value of this trade by approximately 7.3 percent. As the U.K. points out, this increased trade would, by increasing wages and lowering prices, deliver value to workers and consumers in the U.K., and, of course, in the U.S.

Regrettably, the U.K.'s effort to quantify the gains from an agreement with the U.S. rest entirely on the beneficial effects of tariff reductions. These gains are relatively easy to quantify. But focusing on the gains to be had from the elimination of tariffs on trade between the U.S. and the U.K. neglects the benefits that are likely to arise from the creation and promotion of standards for digital trade and trade in services. The U.K. highlights its desire to facilitate these kinds of trade in its objectives, but it omits them from its calculation of projected gains. Admittedly, these gains are difficult to quantify. But the gains of a U.S.–U.K. free trade agreement are likely to flow disproportionately from facilitating invisible trade. As a result, the U.K.'s negotiating objectives likely significantly undervalue the benefits of a U.S.–U.K. free trade agreement.

U.K. Negotiating Objectives That Open Opportunities

The U.K.'s negotiating objectives naturally range widely over many areas of trade policy. A number of these objectives open significant opportunities for negotiating an ambitious and successful free trade agreement with the U.S.

Among the most important of the U.K.'s negotiating objectives are:

- **Goods market access.** The U.K. seeks to “secure broad liberalisation of tariffs on a mutually beneficial basis.”⁴ This is natural and low-hanging fruit for a U.S.–U.K. free trade agreement. Any conceivable such agreement should seek to reduce, and preferably to entirely eliminate, tariffs (and quotas) affecting U.S.–U.K. trade. While the level of these tariffs is relatively low, there is every reason to abolish them entirely.

- **Trade in services.** The U.K. plans to “secure ambitious commitments from the U.S. on market access and fair competition for UK services exporters,” while agreeing “best-in-class rules for all service sectors... including key UK export sectors such as financial services, professional and business services and transport services.”⁵ The U.S. has every reason to seek reciprocal commitments from the U.K., thereby creating the basis for an agreement that will set a gold standard for promoting trade and competition in services.
- **Business mobility.** The U.K. seeks to “increase opportunities for UK service suppliers and investors to operate in the US by enhancing opportunities for business travel and supporting the recognition of professional qualifications.”⁶ The U.K. is entirely correct to pursue this objective, just as it is in U.S. interests to expand opportunities for its citizens to work in the U.K. The U.S. has, in the recent past, pursued visa liberalization with nations such as Australia, Canada, and New Zealand, and it is right for the U.S. and the U.K. to make this a shared and reciprocal objective of their free trade agreement.⁷
- **Digital trade.** The U.K. intends to “secure cutting-edge provisions which maximise opportunities for digital trade,” while including “provisions that facilitate the free flow of data...to prevent unjustified data localisation provisions.”⁸ Unlike the EU, the U.K. and U.S. do not seek to constrain digital trade by imposing protectionist data localization requirements. This creates a harmony of interest between the U.S. and the U.K. on the promotion of digital trade. It should therefore be possible to negotiate expansive provisions on digital trade in a free trade agreement between the U.S. and the U.K.
- **Intellectual property.** The U.K. plans to seek protections for intellectual property that “secure copyright provisions that support UK creative industries” and “secure patents, trade marks, and design provisions.”⁹ Given its large and advanced creative industries, the U.S. has a similar interest in promoting effective protections for intellectual property. The U.S. and the U.K. therefore have much to gain by coming to an agreement that sets a high standard for intellectual property protections.
- **Defense industrial partnership.** As the U.K.’s negotiating objectives correctly point out, the U.S. is the U.K.’s “closest security and defence

partner,” and the reverse is also true. The U.K. therefore seeks an agreement that would “reduce barriers to defence sales, in particular by encouraging deeper and faster sharing of technology, and encourage investment in each other’s industrial base.”¹⁰ The U.S. and U.K. have already negotiated and implemented a Defense Trade Cooperation Treaty (2007),¹¹ and in the fiscal year 2017 National Defense Authorization Act the U.S. recognized the U.K. (and Australia) as part of its National Technology Industrial Base (thereby allowing the U.S. to acquire certain items that are normally subject to Buy America provisions).¹² A further deepening of the U.S.–U.K. defense partnership is as much in the interests of the U.S. as it is in the U.K.

U.K. Negotiating Objectives That Pose Challenges

A U.S.–U.K. free trade agreement has been under discussion for over a half a decade. At this point, the challenges to an agreement are clear, and the publication of the U.K.’s negotiating objectives adds little to what is known.

Among the most important of these challenges are:

- **Agriculture.** The U.K. plans to secure broad liberalization of tariffs, but only while “taking into account UK product sensitivities, in particular for UK agriculture.”¹³ The simple fact is that the U.K. cannot “secure comprehensive access for UK industrial and agricultural goods into the US market”¹⁴ without offering the U.S. comparable access into the U.K. market. Both nations have sensitivities on agriculture, and both will have to compromise on their protectionist instincts to secure the access they seek.
- **Sanitary and phyto-sanitary standards.** The U.K. seeks to “uphold the UK’s high levels of public, animal, and plant health, including food safety.”¹⁵ This is a reasonable objective, provided it is not used as a reason to discriminate against U.S. foods that pose no scientifically verifiable danger to public health. Wisely, the U.K.’s negotiating objectives refer to upholding the U.K.’s “levels” of food safety, not to upholding specific regulations, thereby not committing the U.K. to an inflexible negotiating position.
- **Government procurement.** The U.K. intends to “secure access that goes beyond the level set in the World Trade Organization (WTO) Government Procurement Agreement (GPA)” and to “develop

improved rules...to ensure that procurement processes...[are] accessible for all procuring entities.”¹⁶ These are fair and reasonable objectives, provided the U.S. secures similar reciprocal commitments from the U.K., but the U.K. goals will fall foul of a number of “Buy America” provisions in existing U.S. legislation. These provisions are inappropriate and outdated, especially when applied against a close democratic ally like the U.K., and the U.S. should abandon them.

- **Indicators of geographical origin.** The U.K. seeks to “maintain effective protection of food and drink names in a way that reflects their geographical origins.” A bipartisan group of U.S. Senators in 2014 expressed concern at EU efforts to restrict U.S. producers from using common terms such as “bologna” to describe U.S. products.¹⁷ But the U.S. does offer trademark-style protection for geographical indicators that it does not consider to be generic.¹⁸ This issue should be susceptible to a reasonable compromise, as the U.K.’s objectives add that it seeks to get “the balance right for consumers.”¹⁹
- **The National Health Service (NHS).** Illustrative of the political sensitivities of this issue in the U.K., the U.K.’s negotiating objectives refer to the NHS in many contexts, including in its overall objectives, which state “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 never will be, for sale to the private sector, whether overseas or domestic.”²⁰

U.K. concerns on this score are exaggerated. If the NHS chooses of its own free will to allow U.K. private-sector providers to bid on, for example, the provision of cleaning services, then a U.S.–U.K. free trade agreement should allow U.S. providers to bid on those services without discrimination on the basis of nationality. As for drug pricing, the U.S. already has a free trade agreement with Australia, which, like the U.K., operates a national health system. In the U.S.–Australia agreement, the U.S. secured increased transparency, accountability, and consultation, but the agreement reserved to the Government of Australia the right to set the prices of medicines under its health care system.²¹ If the U.S. and Australia can settle this issue reasonably, the U.S. and U.K. should be able to do the same.

Environmental, gender, and development objectives. Finally, the U.K.’s objectives seek to fulfill a number of objectives related to environmental sustainability, the economic empowerment of women, and the impact of the

agreement on developing countries.²² In general, trade agreements should limit themselves to objectives related to trade. Fortunately, the U.K.'s objectives in these areas are general and primarily focused on matters relevant only to domestic legislation, including, for example, the desire to "promote women's ability to access the benefits of the UK-US agreement."²³ The U.S. and the U.K. should therefore be able to arrive at an agreement that satisfies the U.K.'s concerns on these scores without committing the U.S. (or indeed, the U.K.) to precise goals that neither nation would support and that do not appear in the U.K.'s objectives.

What the U.S. Should Do

The U.K.'s objectives demonstrate that, while negotiations for an agreement with the U.S. will not be free from challenges, there is a clear basis for the speedy conclusion of a free trade agreement between the U.S. and the U.K.

The U.S. should:

- **Proceed rapidly with negotiations.** Though the COVID-19 pandemic delayed the start of negotiations, the U.S. and the U.K. rightly made it a top priority to begin the formal negotiation of a U.S.-U.K. free trade agreement as quickly as possible. After both nations published their negotiating objectives, the ground was fully prepared, and there was nothing to be gained from further postponement that was not strictly necessary on the grounds of the need to respond to the pandemic. The U.S. and the U.K. should press ahead with these negotiations and seek to bring them to a rapid conclusion.
- **Seek reasonable compromises.** There are elements in the U.S.'s negotiating objectives that will pose challenges for the U.K., just as there are aspects of the U.K.'s objectives that will raise concerns for the U.S. But the objectives of both nations emphasize the value they correctly place on arriving at a free trade agreement. It is therefore incumbent on both nations to seek reasonable compromises, and, in particular, to avoid allowing narrow protectionist lobbies to defeat the broader objectives upon which both nations are agreed.
- **Aim high.** The most encouraging aspects of the U.K.'s negotiating objectives are the emphasis the U.K. places on its commitment to free trade with like-minded democracies, including the U.S., and

its proclaimed desire to seek an ambitious and comprehensive free trade agreement with the U.S., viewing it as a strategic opportunity to strengthen the Special Relationship. The U.S. should respond to this ambition and work constructively with the U.K. to help both nations take the fullest possible advantage of the once-in-a-lifetime opportunity afforded by the entry of the U.K., a liberal power and a top-five world economy, into the international trading system.

Conclusion

If the U.K. had not entered the EU's predecessor in 1973, the U.S. and the U.K. would today almost certainly be joined by a free trade agreement. Now that the U.K. has left the European Union, the time is right to repair a defect caused by history and proceed immediately to the negotiation and ratification of a comprehensive and ambitious free trade agreement between the United States and the United Kingdom.

Ted R. Bromund, PhD, is Senior Fellow in Anglo–American Relations in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation.

Endnotes

1. U.K. Department for International Trade, "U.K.-U.S. Free Trade Agreement," March 2, 2020, p. 5, <https://www.gov.uk/government/publications/the-uks-approach-to-trade-negotiations-with-the-us> (accessed April 16, 2020).
2. *Ibid.*, p. 5.
3. *Ibid.*, p. 6.
4. *Ibid.*, p. 9.
5. *Ibid.*, p. 10.
6. *Ibid.*
7. Ted R. Bromund, "The U.S. Should Pursue Visa Liberalization with the United Kingdom," Heritage Foundation *Backgrounder* No. 3461, January 10, 2020, <https://www.heritage.org/europe/report/the-us-should-pursue-visa-liberalization-the-united-kingdom>.
8. U.K. Department for International Trade, "U.K.-U.S. Free Trade Agreement," p. 10.
9. *Ibid.*, p. 10.
10. *Ibid.*, p. 5.
11. See U.K. Cabinet Office, "United Kingdom/United States of America Defense Trade Cooperation Treaty," Version 1.2, updated March 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/880250/20200327-UK-US-Defense-Trade-Cooperation-Treaty-Mar-2020-v1.2.pdf (accessed May 6, 2020).
12. National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328.
13. *Ibid.*, p. 9.
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*, p. 11.
17. Rob Portman, "Portman Fights to Protect U.S. Producers Against EU Trade Demands on Names of Meat Products," April 4, 2014, <https://www.portman.senate.gov/newsroom/press-releases/portman-fights-protect-us-producers-against-eu-trade-demands-names-meat> (accessed April 24, 2020).
18. "Geographical Indication Protection in the United States," United States Patent and Trademark Office, undated, https://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi_system.pdf (accessed April 24, 2020).
19. U.K. Department for International Trade, "U.K.-U.S. Free Trade Agreement," p. 11.
20. *Ibid.*, p. 9.
21. Office of the U.S. Trade Representative, "U.S.-Australia Free Trade Agreement: Questions and Answers About Pharmaceuticals," July 2004, <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/archives/2004/july/us-australia-free-trade-agreement-questions-and> (accessed April 24, 2020).
22. U.K. Department for International Trade, "U.K.-U.S. Free Trade Agreement," pp. 11-12.
23. *Ibid.*, p. 12.