



U.S. CHAMBER OF COMMERCE



U.S.-UK Trade Negotiations: Private Sector Priorities

May 5, 2020

Introduction

The U.S. business community is encouraged that the United States and the United Kingdom (UK) are committed to securing tangible improvements in our bilateral trade and investment relationship through a comprehensive, high-standard trade agreement. We stand ready to work closely with both governments to strengthen ties between our two nations—the world’s largest and 5th largest economies, respectively. Especially in light of the profound economic disruption brought on by the COVID-19 pandemic, we are eager to work with U.S. and UK policymakers to advance these trade talks in a timely fashion.

As the two sides begin their negotiations, it is important to underline the considerable uncertainty surrounding the UK’s future trade policy. The U.S. business community is eager to see the UK and EU successfully conclude negotiations on a bilateral trade agreement by the end of the transition period, currently scheduled for December 31, 2020.

U.S. firms have invested more than \$750 billion in the UK, and the American business community has a significant interest in ensuring the future stability and growth opportunities of the UK economy. Many of these investments were made in order to access the larger EU Single Market. With that in mind, it is vital that the UK secure a favorable trade agreement with the EU as quickly as possible. A continued lack of certainty about the way forward will continue to constrain inbound investment and risks limiting prospects for bilateral trade negotiations between the U.S. and UK.

We continue to believe it makes sense for the UK to reset its relationship with the EU before it turns to setting the terms of its trade ties with other trading partners. As it now appears the UK will proceed with the EU and U.S. negotiations in parallel, we see considerable opportunities for a U.S.-UK agreement to advance global standards, particularly in the digital economy, financial services, and emerging technologies. The two sides should also endeavor to remove all tariffs and establish wide-ranging regulatory cooperation mechanisms with meaningful opportunities for stakeholder engagement.

Reducing or eliminating barriers to two-way trade and investment would measurably boost the long-term economic outlook for both the United States and the UK, with particular benefits to small and medium-sized companies. The COVID-19 pandemic makes this growth more imperative than ever. Greater cooperation between our countries would provide a pathway for joint leadership in response to shared challenges in a rapidly changing global economy. For example, the United States and UK should work together to strengthen global trade rules and

institutions to adapt to the challenges posed by non-market economies. Moreover, the United States and UK can lead global efforts to remove trade barriers for critical materials including medicine, medical equipment, and other products necessary to support public health.

In keeping with the Chamber's mission to advocate for free enterprise, competitive markets, and rules-based trade and investment, the Chamber regards these negotiations as an opportunity to remove barriers to commerce. We recommend hewing closely to the negotiating objectives established in the U.S. Bipartisan Congressional Trade Priorities and Accountability Act of 2015, known as Trade Promotion Authority (TPA), as the U.S. administration has indicated it intends to do.

To summarize the Chamber's objectives, we urge U.S. and UK negotiators to consider the following goals:

- **Single Comprehensive Deal:** Conclude a single, comprehensive agreement that reflects an outcome on all issues under negotiation, as agreed by the parties, rather than seeking agreement on a subset of issues or pursuing a phased approach.
- **Trade in Industrial Goods:** Eliminate all tariffs on industrial goods traded between the United States and the UK, include a high-standard chapter on Technical Barriers to Trade (TBT) to address non-tariff barriers, and expand market access for remanufactured goods exports by ensuring that they are not classified as used goods that are restricted or banned.
- **Trade in Services:** Secure high standard rules and open market access commitments to ensure access to the U.S. and UK services markets, including obligations for new services.
- **Trade in Agricultural Products:** Address market access through tariff elimination and by resolving concerns about non-science-based restrictions on agricultural trade with a high-standard chapter on Sanitary and Phytosanitary (SPS) measures.
- **Protect Intellectual Property:** Address intellectual property (IP) rights and enforcement as they relate to patents, copyrights, trademarks, and trade secrets to enhance U.S. and UK leadership in innovative industries.
- **Protect Investment:** Eliminate forced technology transfers, reduce barriers to foreign direct investment by ensuring non-discriminatory treatment, ensure a high standard of protection for U.S. investors subject to an investor-state dispute settlement mechanism.
- **Good Regulatory Practices:** Formalize a joint commitment to follow good regulatory practices, including sufficient advance notice and comment periods and in-depth consultations that include both domestic and foreign stakeholders.
- **Emerging Technologies:** Promote effective regulatory cooperation to address emerging technologies and prevent unnecessary regulatory divergence.
- **Digital Trade:** Facilitate a mutual right to transfer and store data across borders for all sectors, prohibit data localization requirements, ban customs duties and taxes on electronic transmissions, promote risk-based approaches to cybersecurity, foster cloud use across sectors, ensure non-discriminatory and interoperable frameworks for the protection of personal information, and align any plans to tax digital services with international tax regimes.

- Government Procurement: Establish open, fair, transparent, predictable, non-discriminatory, and value-based rules to govern government procurement.
 - Procedural Fairness for Pharmaceuticals and Medical Devices: Seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for U.S. products.
- Section 232 Tariffs: Remove expeditiously the U.S. Section 232 tariffs on imports of steel and aluminum from the UK.

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The following issue- and sector-specific priorities are listed alphabetically, and the order does not reflect prioritization.

Competition

A prospective U.S.-UK agreement should establish strong rules and disciplines to ensure the private sector is not disadvantaged by state-owned enterprises (SOEs). Today's trading rules never envisioned the state as an active cross-border commercial actor in export and investment. Further, it is important that an agreement also address competition enforcement to ensure it is conducted in a manner that assures due process, is based in sound economic analysis, and is not used as a tool for industrial policy or forced technology transfer.

Neither disciplines on SOEs nor the administration of competition law are issues of direct concern in the bilateral U.S.-UK trade relationship. Nevertheless, it is important that the United States and United Kingdom stand shoulder-to-shoulder in establishing these and other much needed trading principles that we can each carry forward with other trading partners in future negotiations.

Customs and Trade Facilitation

There are unique opportunities for a U.S.-UK agreement to set a new global standard for customs and trade facilitation that would directly support the growth of the transatlantic e-commerce market. For instance, the United States and UK could mutually agree that U.S. export declarations could serve as UK import declarations (and vice versa), removing duplicative red tape that would save importers and exporters considerable time and expense.

Moreover, the UK should increase its *de minimis* levels to a more commercially meaningful level for inbound shipment to facilitate trade, particularly for SMEs, and promote e-commerce. In 2016, the U.S. raised the value of merchandise that may be imported free of duties and taxes to \$800 per shipment. By contrast, the UK *de minimis* for duties is only £135 (approximately \$175) and the UK is proposing to eliminate its current VAT *de minimis* level of £15 (approximately \$20), meaning that VAT will be owed on all imports into the UK regardless of value. The U.S. should encourage the UK to raise its duty *de minimis* to a more commercially meaningful level on a Most Favored Nation basis and avoid adding unnecessary complications such as requiring a Harmonized Tariff Schedule number. At no point should the U.S. consider lowering its *de minimis* level as negotiating leverage in these trade negotiations. Further, the current *de minimis* limit for VAT should remain. However, if the UK eliminates it, it should

adopt a simplified and mandatory vendor collect model for tax payment that includes an uncomplicated registration system that doesn't require collection from customs controls at UK borders. Without stronger *de minimis* levels, there will be significant delays for shipments at the border, cross-border competitiveness will be hindered, and added costs for UK customs authorities handling large volumes of low-value packages, especially in light of a dramatically expanded workload after the end of the transition period.

De minimis levels have implications not just for the customs chapter of any future negotiation, but also for services and digital trade. Adjustments to the threshold level for assessing customs duties and reducing the logistics costs of low-value transactions are significant and impact a range of issues and stakeholders, including those related to online shopping, SMEs, e-commerce platforms, and express delivery service providers.

The United States and the UK should consider enhancing informal clearance levels and procedures to provide simplified clearance for lower value goods above the *de minimis* level on a Most Favored Nation basis. The UK should continue to allow for an immediate release procedure on consolidated simplified customs entry for all informal shipments and require the VAT registered bodies to provide a follow-up declaration process for the collection of VAT and duties using their current self-assessment procedures.

The United States and the UK should work together to harmonize and simplify customs clearances processes, including improving the efficiency of customs clearance for shipments. The two governments should rely more on advanced data, risk-based mechanisms, and technology to pre-clear goods and reduce costs, and facilitate submission and processing of documentation via an international single window.

The two countries should improve, simplify, expand, and encourage greater convergence of U.S. and UK "trusted trader" programs and create additional sector-specific "fast lane" processing pilot projects to improve efficiency.

Trusted traders should be able to calculate and pay duties and taxes after the physical release of the goods, including all controlled goods, which would further improve the processing times at the border. Ideally, payment of duties and taxes would be deferred and collected on a periodic basis (preferably quarterly), rather than on a transactional basis.

The parties should commit to harmonizing processes for customs clearance with a goal of immediate release of goods upon departure from one party, which would speed up the flow of commerce through ports and airports. These provisions should not only be open to trusted traders, but to all shipments for which the required documentation and data has been submitted.

The parties should strive to adopt a common set of data elements for import and export documents (ideally at the manifest level), which would simplify the clearance process and reduce programming costs for customs authorities and businesses.

The parties should simplify the process for the return of goods without the need of a formal declaration, provided that the preceding outbound shipment and returned goods can be reconciled. No duties should apply on returned goods if they have not been improved.

Cybersecurity

The United States and the UK should cooperate closely to address shared international cyber issues.

Given the evolving nature of cybersecurity threats, risk-based approaches are likely to be more effective than prescriptive regulation. Accordingly, the United States and the UK should endeavor to employ and encourage enterprises to use risk-based approaches that rely on consensus-based standards and risk management best practices to identify and protect against cybersecurity risks and to detect, respond to, and recover from cybersecurity events.

The agreement should include a commitment to utilize relevant international standards; not to apply measures in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and to eliminate any unnecessary differences in their respective cybersecurity risk management frameworks.

Digital Economy

A U.S.-UK agreement would have considerable potential to set global standards for cooperation in support of the digital economy.

The digital trade chapter of a future U.S.-UK agreement should secure commitments that ensure the ability for businesses in all sectors to seamlessly move data across borders. This includes a prohibition on the forced localization of data across all sectors.

As a first priority, the two governments must work together to ensure commercial data continues to flow freely after the end of the transition period. The UK, together with the U.S. Department of Commerce and the Federal Trade Commission, have agreed to enable companies certified under the EU-U.S. Privacy Shield to continue sending personal data to the United States, provided they update their privacy policies to reflect the fact that the UK is no longer part of the EU. Failure to maintain or replicate these data protection arrangements would threaten the ability to secure the free flow of data between the United States and the UK. This would constitute a severe impediment to U.S. companies doing business both in the UK and in the EU from a UK subsidiary.

The agreement should explicitly prohibit measures that require the use of local technology infrastructure for market access and other commercial benefits. The U.S. and UK should encourage consumer choice and use the agreement to promote Internet access.

The agreement should forbid discrimination against U.S. or UK technology companies, products, and/or services. The transfer or access to software source code or algorithms should not

be required as a condition for market access. Both countries should work to facilitate a regulatory environment that allows companies to utilize data collection and analysis.

The agreement should encourage the use of electronic customs forms, electronic signatures and authentication, and secure on-line payments. The agreement should also prohibit customs duties on electronic transmissions, including information transmitted electronically.

The agreement should champion smart and effective approaches to encryption that do not require companies to undermine product security.

The digital chapter should include protections for online platforms and marketplaces to host lawful speech and commerce without being treated as the originators of content.

The countries should commit to work towards developing common mechanisms that protect personal data while promoting further compatibility and ease of doing business across borders.

Finally, it bears noting that the same basic trade principles of national treatment and non-discrimination apply when crafting tax policy. Tax policy measures should not discriminate against digital services or single out companies or sectors for disparate treatment, either on a de jure or de facto basis. As it is currently being implemented, the UK's digital services tax fails to meet these important obligations. A better solution will require international coordination at the OECD.

Direct Selling

The agreement should explicitly recognize direct selling as a legitimate and beneficial distribution service that expands consumer choice, encourages entrepreneurship and labor market flexibility, and broadens economic opportunity. At the same time, the UK Government should acknowledge that up-line payments based on product sales shall not be prohibited. This distribution system was recognized in the USMCA (Chapter 15, Cross Border Trade in Services, Article 15.10: Paragraph 1, footnote 7). The definition of direct selling in the U.S.-UK agreement should be identical to the language in this footnote.

Global Engagement - Regulation, Standards & Capacity Building

The United States and the UK should encourage leading industry sectors to work together on a common proposal for action, promoting transatlantic cooperation on a bilateral basis and pursuing a shared agenda globally. Further, the United States and the UK should establish a critical list of emerging technology areas, in concert with industry, that identifies the most strategic developments for the coming decade, including: 5G, electric and autonomous vehicles, 3D printing, robotics, smart cities, and intelligent health delivery. Combined efforts to set the standards now will ensure continued opportunities for the U.S. and UK to build new markets and promote global development.

Ultimately, the United States and the UK should work together on issues such as setting future disciplines to address global imbalances, which in turn could revitalize commitments to key multilateral organizations, including the WTO, OECD, UN, G7, G20, and more. Cooperation on a shared third-country agenda would support global prosperity and reinforce transatlantic leadership.

Industrial and Remanufactured Goods

The agreement should address remanufacturing products at the end of their serviceable lives and bar discrimination against such goods when in “same-as-when-new” condition. This helps reduce owning and operating costs by providing quality components and equipment at a fraction of the cost of a new product. Remanufacturing reduces waste and minimizes the need for raw materials. Remanufactured goods are entirely or partially composed of recovered materials, have a similar life expectancy to a new product, and have a factory warranty similar to that of a new product. USMCA contains language that ensures market access for remanufactured products that should be replicated in a U.S.-UK agreement. USMCA stipulates that countries cannot impose restrictions on remanufactured products that they place on used goods. This language sets a strong precedent for the treatment of remanufactured goods in future trade agreements with countries where barriers remain and should be a priority negotiating objective in every new U.S. trade agreement.

Intellectual Property

The U.S. business community recognizes the importance of U.S.-UK trade, and, considering the very strong intellectual property rights regimes in both countries, we see these negotiations as a real opportunity to set the highest global standard for IP-led creativity and innovation.

IP-intensive industries employ 45.5 million Americans, accounting for \$6.6 trillion in U.S. GDP and 52% of all U.S. exports. This success is underpinned by IP rights—patents, copyrights, trademarks, and trade secrets—that provide innovators, creators, and importantly investors, with the legal certainty to make long-term, high-risk, capital intensive investments in innovative and creative activity. The resulting output improves lives around the world.

Creative works, inventions, and brands are a significant comparative advantage for both the U.S. and the UK in the global economy. This is clearly illustrated by the fact that the U.S. and UK economies sit atop the U.S. Chamber of Commerce’s International IP Index, demonstrating these two countries stand side-by-side as global leaders in IP protection and enforcement.

- By ensuring that patents, copyrights, trademarks, and trade secrets are uniformly well protected between the two countries, U.S.-UK negotiations have the potential to:
 - Increase U.S.-UK trade flows.
 - Provide even greater incentives for businesses to make long-term, high-risk, capital-intensive investments in innovative and creative industries.

- Enhance the global standing of both states as leading innovative and creative economies.
- Provide a model to the rest of the world on what a high ambition pro-IP trade agreement looks like.

The agreement should include provisions that recognize and seek alignment to the high standards available in the United States and the UK, including: an adequate patent term extension mechanism to compensate for patent term lost to marketing approval delays; a mechanism that facilitates early resolution of patent disputes before generic copies are launched on the market; and adequate levels of regulatory data protection (including 12 years of regulatory data protection for biologics) to enhance investment incentives in clinical trials.

Both countries should avail themselves of the opportunity to advance a model approach to sustainable access to innovation and creativity through respect for property rights and a return of fair value for innovation.

Finally, regular exchanges of best practices between the U.S. Patent and Trademark Office and the UK Intellectual Property Office, and associated government agencies, should be encouraged, to ensure ongoing coordination and to provide transparent opportunities for stakeholder engagement.

Investment

The U.S.-UK commercial relationship is built on investment even more than trade, and much of our trade is a product of strong cross-border investment ties. In fact, the United States is the largest investor in the UK: U.S. investments account for nearly 30% of all investment in the UK. American firms have invested more than \$750 billion in the British market. Meanwhile, the UK is the single largest investor in the United States, which receives 21% of all outbound UK investment, totaling more than \$560 billion to date.

The agreement should use the obligations found in the U.S. 2012 model Bilateral Investment Treaty as the basis for an investment chapter in a U.S.-UK trade agreement. The agreement should protect U.S. and UK investments from discriminatory treatment as well as direct and indirect expropriation. It should follow the model BIT's approach to minimum standard of treatment, including fair and equitable treatment, and performance requirements, and it should ensure free transfers. These obligations should be enforced through an investor-state dispute settlement (ISDS) mechanism that does not require using local courts prior to proceeding to ISDS. The agreement should ensure that all sectors are afforded the same level of protection.

Product Standards, Regulatory Cooperation, and Certification

The agreement should identify and promote new sectoral agreements that minimize duplicative testing and certification requirements, and create new regulatory cooperation mechanisms with meaningful opportunities for stakeholder engagement. In particular, the agreement should promote pathways to jointly address emerging technologies and prevent unnecessary regulatory divergence.

The U.S. and UK should implement APEC/OECD-endorsed Good Regulatory Practices, including the use of stakeholder notice and comment, regulatory impact assessments, retroactive regulatory review, and a commitment to the use of sound science in regulatory decision-making. The agreement should promote the use of Central Coordinating Bodies to drive the implementation of Good Regulatory Practices across both governments. The agreement should establish a bilateral Committee on Good Regulatory Practices, which would identify opportunities for additional formal regulatory cooperation initiatives between the U.S. and UK.

On technical barriers to trade (TBT), the U.S. and UK should, at a minimum, seek to achieve the levels of the USMCA. This includes the use of Good Regulatory Practices in technical regulations and the use of international standards and transparency around the use of conformity assessment.

Where possible, both governments should seek opportunities for cooperation on conformity assessments, such as via mutual recognition agreements. The agreement should encourage and enable the use of a range of international standards, where they meet established regulatory objectives, as well as the use of internationally recognized conformity assessment bodies.

Public Procurement

The agreement should include a chapter providing for open, transparent, and reciprocal access to U.S. and UK procurement markets, expanding access beyond the level established in the GPA (to which the United States should remain a party). The agreement should support a value-based system for government procurements with objective criteria based on “best value” rather than an exclusive focus on lowest price. These commitments should apply at both the national and sub-national level in both countries.

Rules of Origin

The agreement should focus on encouraging and enabling cross-border trade between the United States and the UK. Given that supply chains between the United States and the UK are less developed than they are within Europe or within North America, the agreement should avoid stringently defined rules of origin that would make it overly burdensome for companies to comply with the terms of this agreement. Origin rules should be simplified as far as possible, avoiding mechanisms like restrictions on the percentage content for certain tariff sub-headings within a finished product, for example. Simpler rules will increase participation in the eventual agreement. If the eventual agreement’s rules of origin are excessively stringent, many companies would likely choose to simply pay the relevant tariffs, making the agreement irrelevant. Additionally, the agreement should exclude any “no drawback” provisions to ensure companies are able to benefit from both duty suspensions and preferential origin status for goods. The agreement should provide streamlined, transparent, and flexible rules of origin in order to ensure full utilization of the agreement.

Sanitary and Phytosanitary Measures (SPS)

The United States and the UK should strive to reduce or eliminate all remaining tariffs on agricultural products. Both countries should commit to the use of sound science, as well as other Good Regulatory Practices, in their SPS approvals process. Where possible, the agreement should identify opportunities for regulatory cooperation initiatives around audits of facilities, equivalence determinations, and information exchange. The agreement should establish technical working groups to address specific issues that arise in SPS-related sectors and codify strong practices of stakeholder consultation.

Sector-Specific Regulatory Priorities

➤ **Agriculture and Biotechnology**

- Encourage timely, transparent, science-based approval systems for biotechnology and chemistry products with reasonable and clear timelines.
- Establish a working group with stakeholder involvement to identify and address specific regulatory issues and resolve longstanding concerns.

➤ **Automobiles**

- Establish mutual recognition of existing standards, in close coordination with industry.
- Develop a common framework for joint U.S.-UK development of future standards.

➤ **Chemicals**

- Eliminate U.S. and UK chemical tariffs immediately and collaborate to make eliminating tariffs on chemicals a shared multilateral objective.
- Regulatory cooperation:
 - Promote more efficient and effective cooperation between UK and U.S. regulatory chemicals management systems, focusing on common principles for information sharing, prioritizing chemicals for review and evaluation, and coherence in hazard and risk assessment (based on the weight of scientific evidence).
 - Institute a harmonized approach to data assessment to simplify the registration process and improve transparency and efficiency, while providing effective human health and environmental protections.
- Focus on establishing common principles for data quality, including utility, objectivity (which includes reproducibility), and integrity.
- Develop new pilot projects to identify areas of cooperation and promote the mutual recognition of data.¹
- Promote greater coordination between the newly upgraded Toxic Substances Control Act (U.S.) and REACH (UK) regulations to: achieve our shared goals of

¹For example, commitments should include the promotion of greater coherence between diverging U.S. and UK Classification and Labelling schemes and the implementation of the UN Globally Harmonized System for Classification and Labeling (GHS) as a common classification inventory (effectively leveraging existing work). Such a common approach would reduce or eliminate the need for dual classifications for chemical substances, reduce costs and inefficiencies for companies and governments, and facilitate trade.

high standards of health and human safety; foster more efficient compliance by large and small companies; encourage innovation and access to market; create resource sharing opportunities for regulators; and support greater transparency and credibility with the public.

➤ **Delivery Services**

- Ensure the U.S. and UK remain world leaders in effective postal regulation.
- Commit to fair, non-discriminatory treatment of non-postal service providers through the inclusion of a delivery services sectoral annex in the agreement to ensure that U.S. and UK consumers and businesses retain access to world-class delivery service options.
- Ensure that some of the unique challenges associated with market dominant players in the sector (*i.e.* national postal operators) are addressed with appropriate safeguards against abuse of that position, including the elimination of cross-subsidization and disparate treatment in the areas of customs procedures, duties, taxes, charges, transportation regulation, and enforcement.

➤ **Energy**

- Foster a transparent market that enables all resources to compete fairly in bilateral tenders.
- Ensure that market rules and pricing are technology-neutral and do not privilege incumbents over newcomers.
- Remove restrictions on U.S. exports of LNG to the UK.
- Do not regulate LNG pricing or institute UK quotas for imports of U.S. LNG.
- Remove UK duties on base oils.
- Promote international consistency in technical and safety standards.
- Encourage the UK to negotiate an Energy Star Agreement with the U.S. and recognize any subsequent revisions to the Energy Star program.

➤ **Financial Services**

- Facilitate active stakeholder involvement in the U.S.-UK Financial Regulatory Working Group to identify and address specific regulatory issues and resolve longstanding concerns.
- Promote regulatory equivalence and ongoing regulatory cooperation to encourage continued cross border activity with appropriate levels of oversight.
- Ensure the free flow of data and prohibit data localization requirements, including for financial services.
- Ensure other digital trade elements also apply to the financial sector, *i.e.* no carve outs for the sector in terms of coordination and collaboration on cyber, protection of source codes and algorithms, forced technology transfer and the purchase of use of particular technologies.
- Collaborate to create and enhance a regulatory sandbox for fintech companies, as well as traditional financial institutions, on an equal basis.
- Promote the use of cloud technologies in the financial sector.
- Engage with stakeholders to discuss broadening cross-border supply commitments for financial services.

- Include broad commitments on procurement of financial services.
- **Insurance**
 - Ensure strong market-access commitments, including national treatment.
 - Prohibit measures which require foreign insurers or reinsurers to cede a portion of their business to domestic competitors.
 - Prohibit measures which restrict access to cross border reinsurance.
 - Prohibit conversion of locally held foreign currency/financial assets into domestic currency.
 - Include strong disciplines on state-owned-enterprises, and on supply of insurance services by postal insurance entities and cooperatives in competition with private insurers.
 - Build on the progress of the U.S.-UK Covered Agreement, where the UK conditionally agreed to recognition of the U.S. approach to group solvency, by committing the UK to take a consistent approach in International Association of Insurance Supervisors' discussions to develop an insurance capital standard.
 - Include disciplines prohibiting the nationalization of privately managed individual account defined benefit and defined contribution retirement systems.
- **Medical Devices**
 - Promote greater cooperation between relevant U.S. and UK regulators to reduce unnecessary duplication of testing, spur innovation, and provide greater access to the best available medical devices.
 - Ensure transparency and procedural fairness in the process by which national health care authorities establish reimbursement pricing for medical devices. This would require a reasonable amount of time for making reimbursement decisions, clear and transparent rules to make these decisions, consultations with providers during the decision-making process, clear explanations of decisions made, and an appeals process.
 - Create a U.S.-UK medical devices working group to ensure ongoing coordination and provide transparent opportunities for stakeholder engagement.
- **Pharmaceuticals**
 - Jointly promote high-level global standards on intellectual property and innovation, particularly in multilateral organizations.
 - Encourage early resolution of patent disputes to ensure market predictability, and prevent infringing products from making it to the market.
 - Promote greater regulatory cooperation efforts between the U.S. Food and Drug Administration (FDA) and the UK Medicines and Healthcare products Regulatory Agency (MHRA) to reduce unnecessary duplication of testing, spur pharmaceutical innovation, and provide greater access to medicines, including:
 - Better alignment of U.S.-UK pediatric scientific approaches to minimize duplication and streamline medicines development for children, thereby reducing the time necessary to get innovative products to the market and lowering costs, while avoiding redundant clinical trials on children.

- Manufacturing changes: MHRA and FDA should work together to develop a more harmonized approach to post-approval variation submissions for manufacturing changes. This should include aligning classification of changes, type of submission required, and timelines.
- Adopt appropriate pricing and reimbursement systems that fairly reflect the value of R&D and innovation and that provide patients access to the latest, most innovative medicines.
- Develop mutual recognition agreements to recognize testing data and inspections of manufacturing sites for both human and veterinary medicines and vaccines.
- Create a U.S.-UK medicines working group to ensure ongoing coordination and provide transparent opportunities for stakeholder engagement.
- Promote firms' ability to share data and test results, while protecting patient privacy, especially in light of the need for global cooperation to address the COVID-19 pandemic.

Services Trade

Services trade between the United States and United Kingdom topped \$134.8 billion in 2018. Services represent roughly 80% of our respective economies, and it is therefore in our shared interest to ensure that any U.S.-UK trade agreement include the highest possible standards in terms of binding services market access—including for new services. The agreement should also include national treatment commitments for services, including transportation, logistics, information and communication technologies, telecommunications, financial services and professional services.

The agreement also should allow for meaningful stakeholder engagement opportunities, whether via existing fora, such as the U.S.-UK Financial Regulatory Working Group, or other consultative mechanisms established pursuant to the agreement. Negotiators also should establish a framework for cooperation towards elimination of services trade restrictions in third countries.

The United States and the UK are among the most important financial centers globally. A future U.S.-UK agreement should promote regulatory equivalence and ongoing regulatory cooperation to encourage continued cross border activity with appropriate levels of oversight. Existing regulatory cooperation channels, including the U.S.-UK Financial Regulatory Working Group, should continue, with enhanced opportunities for stakeholder engagement to ensure they are addressing the most commercially significant regulatory issues.

Small and Medium-sized Enterprises (SME) Policy

We welcome the formation of the U.S.-UK Small and Medium Enterprise Dialogue, bringing SME representatives and government officials together to develop policy proposals to facilitate trade and investment for small and medium-sized enterprises. This is an important first step and basis for ongoing efforts to facilitate SME trade and investment.

The U.S.-UK agreement should also set up a dedicated website to ensure SMEs have ready access to tailored information on such issues as protecting intellectual property; foreign investment restrictions; business registration procedures; employment regulations; and taxation procedures.

The agreement should also support the development of SME trade in services and SME-enabling business models, such as direct selling services¹, including through measures that facilitate SME access to resources or protect individuals from fraudulent practices.

Social, Labor, and Environment Issues

The agreement should establish a private sector-led working group to review risks and opportunities that can be mitigated and achieved, respectively, through sustainable environmental business practices and products to develop favorable market access mechanisms for U.S. and UK businesses (e.g., for technologies, products, processes or supply chains that meet agreed science-based and other robust management criteria), reduce significant trade barriers, and ensure flexible regulatory approaches.

Sustainability

U.S. and UK companies are leading the way in developing and adapting new processes and developing new innovative products, services, and technologies. The transatlantic agenda should capitalize on this innovation by incentivizing further joint R&D of sustainable technologies, streamlining and ensuring efficient regulation to commercialize leading-edge technologies and products, and establishing policy that rewards environmentally responsible practices and investments. Both governments should work together to identify and promote an enabling agenda that encourages further investment and streamlines access to third country markets worldwide in support of deployment and implementation of these products and technologies. Both governments should avoid border adjustment measures that would stifle environmental cooperation and innovation or restrictive or punitive policies that discourage cooperation. For example, a joint U.S.-UK policy agenda should:

- Build on the coordination of sustainability policies and best practices from the OECD and G7;
- Support the expansion of public-private partnerships in the fundamental research and technologies underpinning low-carbon adaptation, lifecycle product management, and value retention in production, distribution, and consumption;
- Coordinate the development of joint market mechanisms and benchmarks to incentivize competition in the deployment of sustainable solutions;
- Coordinate U.S. and UK development aid targeting environmental challenges in developing countries;
- Accelerate work to develop common definitions of sustainable infrastructure;
- Identify public policies and governmental programs that can spur innovation in sustainability-related technologies;

- Build new partnerships between government-led innovation programs and U.S. and UK investors around challenges in building sustainable products and processes;
- Engage policymakers on regulatory and policy obstacles to innovation and adoption of new technologies to maximize their societal impact; and
- Provide a specific mechanism for ongoing stakeholder participation to promote public-private partnerships to evaluate policies that enable sustainability.

Tariffs and Market Access

Trade in goods between the United States and United Kingdom was valued at \$127.1 billion in 2018, with the two sides roughly in balance.

The average U.S. tariff is 3.5%, while the average UK tariff is 5.7%. The trade-weighted average on two-way bilateral trade is 1.6%. While these numbers are relatively low, the impact on the huge volume of bilateral trade remains substantial. Moreover, there are a significant number of tariff peaks, with disproportionate impacts on trade. As such, any agreement should eliminate all tariffs on goods, parts, and components traded between the United States and the UK.

Moreover, any agreement should refrain from including “grey area” measures such as tariff-rate or snapback quotas, voluntary export restraints, and orderly marketing agreements that limit trade and violate the World Trade Organization (WTO) Agreement on Safeguards. The UK should consider acceding to key WTO criteria for sectoral tariff liberalization, including the Chemical Tariff Harmonization Agreement as part of the process to codify and eliminate sectoral tariffs to benefit two-way trade and investment.

The agreement should expeditiously remove the U.S. Section 232 tariffs on imports of steel and aluminum and their derivative products from the UK and remove corresponding UK retaliatory measures on U.S. imports. The agreement should also prohibit the imposition of any prospective U.S. Section 232 tariffs on imports of UK autos or auto parts.

Further, the agreement should prohibit restrictions instituted by either party on the exportation or sale for export of any product destined for the territory of the other party whether made effective through duties, taxes, quotas, non-automatic export licenses, or other measures, with limited exceptions, which should be applied in a transparent, nondiscriminatory, and temporary manner tailored to a legitimate objective.

Trade Remedies and Dispute Settlement

The future U.S.-UK agreement should be enforceable and include robust provisions to settle disputes. With regard to state-to-state dispute settlement procedures, recent U.S. trade agreements such as those negotiated in the 2000s provide good models on which these provisions can be based, as does the USMCA state-to-state dispute settlement mechanism, as amended.

The agreement should also reaffirm the right of both the United States and the UK to address competition from unfairly priced or subsidized imports via clear and transparent trade

remedy processes. The Chamber supports U.S. trade remedy law and has argued that it should be administered in a way that avoids any “unduly protectionist interpretation or implementation which would impair the healthy expansion of trade or invite damaging retaliation by other countries,” according to policy declarations endorsed by the Chamber board of directors. This agreement should provide transparency in how both the U.S. and UK governments use trade remedies against firms from the other country.

Conclusion

The U.S. Chamber’s U.S.-UK Business Council appreciates the opportunity to provide these comments on priorities for a prospective U.S.-UK Free Trade Agreement. These forthcoming negotiations represent an essential opportunity to deepen and broaden trade and investment ties between the United States and one of our most important partners. This cooperation is especially important as both countries look for ways to boost our economies in the aftermath of the COVID-19 outbreak. We look forward to providing additional input with both governments as the negotiations continue.

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