

UK TRADE AFTER THE BREXIT VOTE

A collection of views and international perspectives on what happens next



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“What key principles will underlie UK trade negotiations? Will the UK adhere to the precautionary principle or throw caution to the winds in the desire to grab any market opportunity? Will we ensure trading partners adhere to ILO Conventions on labour rights and will we seek to maintain sustainability clauses? Will the safeguarding of human rights have any place in these deals or are universal human rights seen as a barrier to trade?” **Jean Lambert MEP**

“The EU accounts for nearly half of both UK exports and imports.”

“Deep trade agreements typically take years to conclude... And the UK’s negotiating position is weak. The average UK exporting firm sends approximately 45% of its exports to the EU, while the average EU exporter sends a bit under 7% of its exports to the UK.” **L Alan Winters**

“There is no evidence that the UK and India could reach an agreement any more quickly than the India-EU trade deal currently under discussion. Moreover, it is very likely that Indian businesses will be denied EU market access via the UK if it leaves the single market...”

The situation is complex – if the UK is interested in a trade deal with India it will have no option but to be flexible and open up its Mode 4 immigration to India.” **Geethanjali Nataraj**

“If a US-UK trade deal were to include ISDS more than 15,000 US corporate subsidiaries in the UK would be newly empowered to use it to attack British laws and regulations.” **Melinda St. Louis**

“As the economic reality of leaving the European Union and the single market become ever clearer, EU protections Britain currently enjoys, such as environmental, safety and animal welfare standards, become vulnerable to attack from a Conservative government with a manifesto commitment to ‘free trade at all costs’.” **Keith Taylor MEP**

“The EU trade deal with Canada has been cited as a model, but it is far less advantageous for financial services exports than full single market access, with Canadian banks needing to establish a subsidiary in an EU Member State and follow EU regulations in order to trade.”

Molly Scott Cato MEP



INTRODUCTION JEAN LAMBERT MEP

The EU Referendum held by the UK on 23 June 2016, where 51.9% voted to leave the European Union but 48.1% voted to stay, started a process that will transform Britain's relationship with the rest of Europe. Greens campaigned strongly to remain in the EU and we continue to believe the UK is best served by being an EU member.

Regardless of whether Brexit is hard, soft, smooth, red-white-and-blue, grey, or even if it doesn't finally happen at all, the UK-Europe relationship will never be the same again. The impacts of leaving the EU are not just political – they are also economic, social, cultural and environmental. The impacts of trade deals are just as wide-ranging – trade agreements are always about much more than trade.

Much has already been said about the effect of Brexit on trade – but the focus has often been one of wishful thinking, with scant regard for some of the underlying issues, including the constraints and costs of Britain 'going it alone' in trade terms.

It's sometimes wrongly said that the Greens oppose trade. We don't. But we are critical of the damaging aspects of trade deals, and as a result Greens in the European Parliament have been some of the fiercest critics of EU trade agreements. But this isn't limited to Greens. My committee, the Employment and Social Affairs Committee recently voted against CETA because of its negative impacts on employment protections and conditions for workers across Europe, including the UK.

However, this publication includes essays from a spectrum of contributors who take positive, as well as negative and neutral approaches to trade agreements. This is inevitable in a collection assessing how Brexit will affect trade. It also takes an international approach to ensure broad rather than narrow perspectives.

Geethanjali Nataraj explores the economic potentials for India-UK trade, but highlights that this may require the UK to open up its immigration for Indians – something unlikely to be welcomed by many Brexiters. Australian Green Senator Peter Whish-Wilson assessing the value of a UK-Australia deal, points out that the Australian Government wants a trade deal with the EU more than with the UK. Melinda St. Louis from the US organisation Public Citizen points to the powershift to be gained by multinational companies in the event of a UK-US trade deal. Not quite the 'take back control' that many had in mind when voting Leave.

Alan Winters of the UK Trade Policy Observatory shows that talk of far-reaching international trade deals a-la Liam Fox is premature, and that getting the EU and World Trade Organisation relations right are urgent priorities for the UK to have any functioning trade regime at all – including the trade relations with over 50 non-EU countries it currently enjoys by virtue of being part of the EU.

These and the contributions from Green MEPs and others show that, whilst not a final word on these issues, progressive values need to inform the direction of travel and the detail of our collective futures – for, and beyond, the issue of trade.



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He has worked as Chief Economist at the Department for International Development (DFID) and as Director of Research in the World Bank, and is editor of *The World Trade Review*. He has published over 200 articles and 30 books, mostly on international trade and trade policy. He was made a Companion of the Order of the Bath in 2012.

THE UK'S POST-BREXIT TRADE ARRANGEMENTS — GETTING THE PRIORITIES STRAIGHT

'It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so.' Mark Twain

The Referendum campaign was a trifle light on the details of Brexit and the government of the day did not feel the need to work any out either. One unsubstantiated claim that went the rounds was that the UK could negotiate trade agreements with (lots of) other countries very quickly.¹ In fact, negotiating trade agreements is a complex, time-consuming and delicate task, especially if, as the UK requires, they go beyond mere tariffs to deal with the regulations that influence services trade.

If the UK were to remain within the EU Customs Union, there would be nothing to do about tariffs. By definition, Customs Union members impose zero tariffs on goods from each other and the same tariffs on imports from outside the bloc. This means that there is no need for border formalities between them, which saves traders a lot of hassle. Since the EU has already set its tariffs (and, as a member, the UK agreed to them) there is no likelihood that it would agree to revise them as a result of Brexit. But assuming that the UK does actually leave the Customs Union – i.e. that Dr Fox actually has a job to do as Secretary of State for International Trade – there is a huge task awaiting us. It has to start with two separate issues, because without these, no other significant trade arrangements can be concluded. Before any other country will be willing to strike a trade deal with the UK, it will need to know:

- The UK's trade policies towards World Trade Organisation members in general – because it is to improve on such terms that countries sign additional trade agreements with each other, and
- The trading arrangements between the UK and the EU – because without this no-one can know the value of getting improved access to the UK.

The UK-EU relationship is key in its own right as well. The remainder of the EU accounts for nearly half of both UK exports and imports. The EU is close, rich, very large and very similar to the UK, and so we are always going to trade heavily with it. Currently that trade is conducted on extremely favourable terms, since membership of the customs union ensures that there are no customs formalities on exports or imports and membership of the single market ensures that goods and (many) services produced in

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the UK are immediately saleable in the EU and vice versa. Any move away from these conditions will raise the costs of trade and thus cut the amount of trade we do. This could reach prohibitive levels in cases where failing to meet a regulation could cut trade to zero. A cut in exports reduces incomes and a cut in imports prevents firms and consumers from buying from the best (cheapest/highest quality) source and hence is wasteful.

EU members are clear that attempts to stem the flow of labour into the UK means that the UK has to leave the single market. The best we can hope for is to negotiate single-market-like access to the EU in a number of sectors. But this is both complex and time consuming – such deep trade agreements typically take years to conclude – not to mention the political complications of favouring one sector over another. And the UK’s negotiating position is weak. The average UK exporting firm sends approximately 45% of its exports to the EU, while the average EU exporter sends a bit under 7% of its to UK.

Settling with WTO members should be easier. The UK is a full member of the WTO and has obligations as notified to the WTO by the EU. We need to relabel these as UK obligations and, provided that we did not try to change anything and did not irritate our partners in other ways, this should not face great resistance. There are a few nasty details to settle – mostly in agriculture – but with good will they are not insurmountable. Once we have ‘regularised’ our position in this way, we could then, if we and our partners wished, start to negotiate tariff and trade policy changes in a calmer and less hurried way.

The exit process governed by Article 50 of the Treaty on European Union allows two years to design the UK’s exit deal which must then be agreed in the EU by Qualified Majority Vote. Trade agreements typically take much longer and must receive unanimous support in the EU (including from the Wallonian Parliament!). Thus to prevent trade from dropping off a cliff once the UK actually exits, we need a transitional agreement to prolong current trading rules for a finite time while the final deal is agreed. And since agreeing trade deals with others will depend on the EU deal, we will also need transitional deals with the fifty or so other countries with which we currently have free trade via the agreements they have signed with the (current) EU.

1 ‘Global trade deals will be bigger outside than in the EU, says David Davis’, The Guardian, 14.7.2016. <http://www.theguardian.com/politics/2016/jul/14/global-bilateral-trade-deals-bigger-eu-single-market-david-davis>



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INVISIBLE TRADE: THE GREATEST BREXIT RISK

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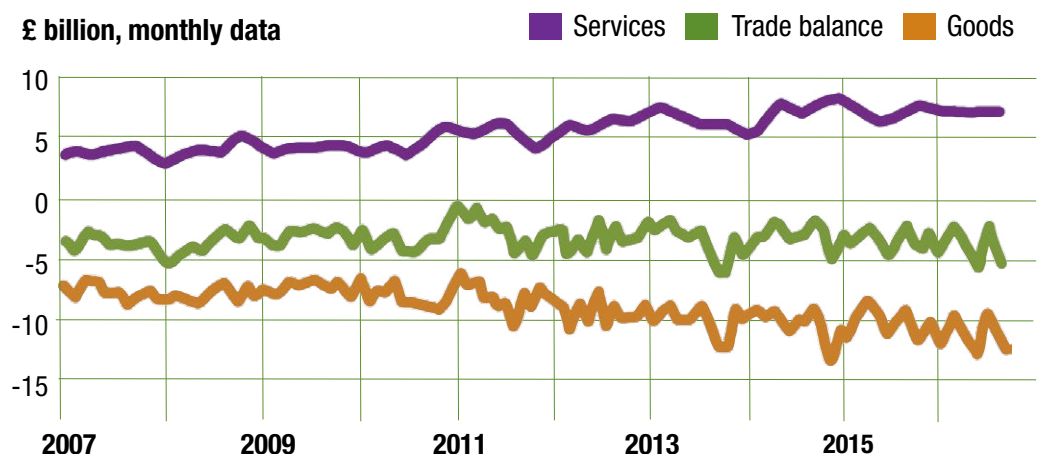
In spite of the post-colonial bluster about being a global-facing nation, nothing can conceal the disastrous state of the UK balance of trade in recent years. Right across the board in things you can see and touch, the UK imports far more by value than we export.¹ What saves us from national catastrophe is what economists call invisibles. Most people think of this as finance – and that is indeed a large proportion of our export value and the focus of this article – but we also export a large range of services including insurance and legal services where our expertise and our English language give us a global competitive advantage. So how might this sector be impacted by the decision to leave the EU?

For better or worse, the UK financial hub based in London but including other centres such as Edinburgh and Bournemouth, is one of the two leading global financial centres. Businesses operating within this hub are globally focused and export around 33% of their financial, insurance and pension services to the EU.² At present the UK benefits from a special deal: it has long been anomalous that the EU's largest financial centre is outside the Eurozone and yet is the base for the European Banking Authority (the EU financial watchdog) and conducts clearing operations denominated in euros. Both of these special advantages will be lost under any Brexit deal.

At present, banks operating in Member States of the EU have the right to provide financial services anywhere in the Union under a licence granted in their home country and under the regulatory supervision of their home country. This is what is known as the 'passport'. It greatly reduces costs of trade since banks have no need to establish subsidiaries in other countries. The less drastic form of Brexit – referred to as 'soft Brexit' – means a future in which we would continue to operate within the single market, accepting the four freedoms and much EU law. Under such a scenario it might be possible for the UK to negotiate continued passporting rights by remaining part of the European Economic Area (EEA).

BALANCE OF TRADE, GOODS AND SERVICES

£ billion, monthly data



“The EU trade deal with Canada has been cited as a model, but it is far less advantageous for financial services exports than full single market access, with Canadian banks needing to establish a subsidiary in an EU Member State and follow EU regulations in order to trade.”

COMPARING PASSPORTING AND EQUIVALENCE

| | Passport | Equivalence |
|-----------------------|---|--|
| Legal base | Treaty and secondary law | EU secondary law |
| Rights granted | Free provision and financial services | Narrowly defined in the relevant articles |
| Beneficiary | Institutions established in the EU members states and EEA | Institutions established in the ‘third country’ following assessment by the Commission |

Source: European Commission.

A more distant form of relationship would considerably impede financial services trade. Countries that are outside the EEA can ask for equal treatment with Member States’ banks – so-called ‘equivalence’ – but they must do so on a piecemeal basis and each individual application for access for a particular product or service is assessed separately by the European Commission.

In recent years trade deals have focused mainly on reducing tariffs on goods as well as harmonising standards to ease the flow of goods across borders. They have made much slower progress in the area of trade in services. Once it has its divorce settlement the UK could look to negotiate a specific Free Trade Agreement (FTA) with the EU. The EU trade deal with Canada has been cited as a model, but it is far less advantageous for financial services exports than single market access, with Canadian banks needing to establish a subsidiary in an EU Member State and follow EU regulations in order to trade. Ironically, many Canadian firms might have chosen London as their base were it not for the Brexit vote.

There is still no clarity around the Government’s Brexit negotiation position but we can be certain that the interests of the City will dominate. In this article I have laid out the sorts of relationship the UK financial sector can expect after Brexit under different scenarios. It is worth pointing out in conclusion that the Brexit ministers have argued that the UK will be able to bend the rules, and this might mean special terms for the City. For EU politicians this cuts both ways: they will not want to lose this ‘powerhouse’ but on the other hand competitive financial centres in Frankfurt, Paris, Dublin and elsewhere are keen to take the UK’s business. The City may be protected but this is likely to come at the cost of trading away other sectors that the Tories consider less important, particularly agriculture. As with all other aspects of Brexit, the rules are one thing, the politics quite another.

1 House of Commons Briefing paper SN02815. <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02815>

2 UK Treasury, the Long Term Economic Impact of EU Membership and the Alternatives (April 2016).



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POST-BREXIT TRADE: AGRICULTURE AND ENVIRONMENT AT A CROSSROADS

When it comes to protecting our natural world, the decision to join the European Union has proven to be one Britain's greatest triumphs.

No longer the 'dirty man of Europe', almost 80% of UK environmental law derives from EU legislation refined over several decades. Our precious wildlife, the welfare of millions of animals and our food safety is protected by Britain's membership of the European Union.

Britain's future cooperative and trade relationship with the European Union will determine the fate of these vital laws and protections.

Broadly speaking, Britain's post-EU trading options fall into two categories: either the UK maintains a close relationship with the EU and remains a member of the single market, the 'Norway model', or the Government pulls up the drawbridge and opts to wrench Britain from the European Economic Area (EEA) entirely.

Outside of the EEA, the UK might look to strike a bilateral agreement, seek a customs union or vie for a free-trade association with the EU. Ministers might even choose to forgo any tailored deal and, instead, opt to rely on World Trade Organisation (WTO) rules.

Under the 'Norway model', Britain's trade relationship with the EU would remain much the same. A significant majority of EU environmental laws would be retained. Trading relationships with non-EU countries, however, could change if the UK becomes a member of the European Free Trade Area (EFTA). But the maintenance of EU laws and regulations would ensure the environmental impact of any new trade deals is restricted.

Both models would see Britain leave the Common Agricultural Policy, meaning, in theory, it would be possible for Ministers to refocus farming subsidies on promoting high environmental and wildlife standards. In reality, Ministers could also introduce a more environmentally destructive subsidy system.

The biggest threat to Britain's farmers, food security, wildlife, animal welfare standards, and environment, however, comes if Ministers choose the 'other' option; the 'bilateral free trade' route. As the economic reality of leaving the European Union and the single market becomes ever clearer, the EU protections Britain currently enjoys would be vulnerable to attack from a Conservative government with a manifesto commitment to 'free trade at all costs'.

The precise status of myriad protections would, of course, vary depending upon the type of free trade agreements pursued by the Government. Which makes it all the more concerning that the Conservative Party continues to aggressively support two of the biggest corporate power grabs in the history of

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trade deals; the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-US Transatlantic Trade and Investment Partnership (TTIP).

Outside of the EU, aggressive free market trading would hit Britain’s agriculture industry the hardest. In fact, 90% of British farmers could lose their livelihoods under post-EU models proposed by the Government, according to expert industry analysis.¹ Additionally, in a bid to keep farmers competitive on a global scale, Farming Minister George Eustice has indicated he will be looking to scrap vital EU environmental and animal welfare regulations.

The hard-won laws currently protecting millions of UK farm animals² from the cruelty of battery cages, tail docking, sow stalls, and veal crates are at risk. The laws governing intensive farming, GMOs, pesticides, and the protection of agricultural wildlife habitats could disappear in the service of free trade. Ministers are also being called upon to scrap the EU’s respected ‘precautionary principle’.³ When human, animal, or environmental safety is at stake, the principle ensures policy makers err on the side of caution.

Only the biggest agri-corporations would survive the transition; small-scale independent farming would almost certainly all but disappear.

Other goods sold to an EU market would still have to comply with EU standards of safety and environmental sustainability. But environmental protection controls could still be watered down within the UK. Furthermore, the UK Trade Minister, Liam Fox, has already suggested the Government will increasingly focus on pursuing trade agreements with countries where environmental, safety and animal welfare regulations are significantly weaker than the EU’s. Naturally, manufacturers would, therefore, be driven to produce to only the lowest standards necessary.

If Ministers decide against maintaining a close and positive relationship with the EU and embrace damaging bilateral trade deals⁴, they are, effectively, handing environmental, food safety, and wildlife regulatory decision-making powers over to multinational corporations. The threat of costly legal action in extrajudicial courts will push even reluctant British governments to weaken standards in line with our least regulated competitor - the archetypal race to the bottom.

The race has already begun; the Chancellor fired the starting pistol when he decided to follow America’s lead in announcing corporation tax cuts. But if we continue alone, without our politically and economically cooperative allies we, the British people, are destined to lose. And environmental degradation, poorer food, air and water quality, and the transfer of democratic power to multinational corporations will be our consolation prize.

1 Keith Taylor MEP, #AnimalsNeedEU: Why a vote for Remain is a vote for animals. <http://www.keithtaylormep.org.uk/2016/06/22/animalsneedeu-why-a-vote-for-remain-is-a-vote-for-animals/>

2 Keith Taylor MEP, Jean Lambert MEP and Molly Scott Cato MEP, Response to the Government’s consultation on the ‘The Future of the Natural Environment after the EU Referendum’. <http://www.keithtaylormep.org.uk/wp-content/uploads/Future-of-the-Natural-Environment-Response-Green-MEPs.pdf>

3 For explanations of the precautionary principle, especially in EU law see <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l32042> and http://eur-lex.europa.eu/summary/glossary/precautionary_principle.html.

4 Of particular concern are the provisions establishing extrajudicial courts which are likely to be included in such trade deals.



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INDIA-UK TRADE AND INVESTMENT POST-BREXIT

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Until recently she was a visiting fellow to Bruegel, a think tank in Brussels and Senior Fellow/Professor at the Observer Research Foundation, New Delhi. She has nearly 19 years of experience in carrying out research on international trade and investment issues and has served as a consultant to various international organisations. She has published in national and international journals during her long academic stint with think tanks and universities in India.

India and the United Kingdom have been close allies for a long time. The bilateral relationship between the two countries was upgraded to a strategic partnership in 2004 and was further strengthened by the visits of Prime Minister David Cameron to India in 2010 and 2013, reinforcing the UK's commitment to further relations with India. PM Modi's visit to the UK in November 2015 took the relationship to new heights and both the countries developed a new roadmap for deepening cooperation. The situation changed in June 2016 with the UK's EU Referendum, where nearly 52% voted to leave the European Union. However, trade relations between the two countries continue to flourish and recently so with the visit of PM Theresa May in November 2016.

Bilateral trade between India and the UK was \$14 billion in 2015-16 which was slightly lower than the previous year's total trade of \$14.33 billion. Britain continues to be among India's major trading partners.¹ In fact, the UK's share in India's global trade increased from 1.89% in 2014-15 to 2.18% in 2015-16. The EU, however, is India's largest trading partner with 13% of India's trade being with the EU in 2015. India was the EU's 9th largest trading partner in 2015, with 2.2% of EU's trade being with India – amounting to EUR 78 billion.

Similarly, India-UK bilateral investment ties have continued to remain strong. Britain continues to be the third largest investor in India after Mauritius and Singapore with a cumulative Foreign Direct Investment (FDI) of \$23.10 billion from April 2000 to March 2016. India is one of the largest source markets for FDI projects in the UK.² India also received \$24.91 billion in FDI equity inflows from the EU between April 2012 and May 2015. Thus both the EU and the UK remain important to India.

Given the good trade and investment relations between the two countries, an India-UK trade agreement has been on the anvil since 2006 with several rounds of discussions and no concrete outcomes. However, it is being opined by Indian industry that a Free Trade Agreement (FTA) could be easier to accomplish at a bilateral level following Britain's exit from the EU. Given strong cultural and historical ties with India, as a part of the FTA, India expects the UK to consider easing global movement of skilled professionals to facilitate greater investment from Indian firms. Services are an area of comparative advantage for India and India expects liberalisation of Mode 4³, the movement of people – especially skilled professionals. However, this could prove to be difficult given the fact that anti-immigration sentiments played a significant part in the UK Referendum vote to leave the EU.

If an FTA were to be negotiated, the UK may also be compelled to lower tariffs on goods in some agriculture products of interest to India that it currently imports from other EU countries where existing tariffs are high. The two countries would also need to negotiate non-tariff barriers faced by Indian exporters as well as make Indian exports comply with UK standards. On the other hand, a high-level forum blessed by both countries' prime ministers has identified six major areas ripe for collaboration: smart cities and the digital economy; health care and hygiene; education, manufacturing, defence and

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security; financial and professional services; and making it easier to do business. It is interesting that the backbone of nearly all of these areas is technology.

According to a study carried out after the EU Referendum by the Commonwealth Secretariat a well negotiated FTA between the UK and India has the potential to increase bilateral trade by 26%. The Commonwealth Secretariat has identified 13 new products which India can export to the UK, for which it has estimated market access of around \$2 billion. India and the EU have been negotiating an FTA since 2007, without conclusion. The talks have continued since the Brexit Referendum; however India has made it clear that these negotiations will have to be re-visited once the UK leaves the EU. As there is no India–EU FTA, the tariffs facing India and the UK in each other’s markets have been high. Tariffs on UK exports into India are estimated to be around 14.8% on average, while Indian exports into the UK face tariffs of around 8.4% on average.⁴

It can be argued that, over the years, Britain’s membership of the EU may have acted as an obstacle to developing trade and investment partnerships with the rest of the world including India. Although that must be balanced against the economic benefit the UK has gained from being party to EU trade agreements with around 50 countries internationally. Outside the EU the UK could have a freer hand to forge closer trading ties for the benefit of both UK and Indian economies.

However, the Indian Commerce Ministry has made it clear that India and the UK can work on a Free Trade Agreement (FTA) with India only after the latter is officially out of the European Union, but the two countries have set up a joint working group to deliberate upon ways to strengthen commercial relationship. This is because the content of an India-UK FTA will depend on the kind of deal and terms of exit Britain negotiates with the EU and the UK is not allowed to sign an FTA with India while it is an EU member.

Both the UK and EU are equally important for India. So there is no evidence that the UK and India could reach an agreement any more quickly than the India-EU trade deal currently under discussion. Moreover, it is very likely that Indian businesses will be denied EU market access via the UK if it leaves the single market. This could lead to a decline of interest in Indian businesses to invest in the UK. The situation is complex as India is likely to insist on inclusion of Mode 4 in the FTA and if the UK is interested in a trade deal with India it will have no option but to be flexible on Mode 4 and open up its immigration.

Political drive and willingness on both sides to keep the relationship strong and reach further heights could outweigh the uncertainties over UK-India relations arising from Brexit. But EU-India relations have to also be taken into account. There is immense potential for enhancing not only trade and investment between the countries but several opportunities in other areas of cooperation as well.

- 1 During 2015-16, the UK ranked 12th in the list of India’s top 25 trading partners, moving up 6 places from being 18th in 2014-15. Despite the global economic slowdown and the Eurozone crisis, India-UK bilateral trade has been resilient.
- 2 The UK ranks first among the G20 countries and accounts for around 8% of all FDI into India for the period April 2000 to March 2016. According to the annual report of UK Trade and Investment (UKTI), India undertook 122 projects in 2014-15 in the UK making it the UK’s third largest source of FDI accounting for over 9,000 new jobs in 2014-15.
- 3 Mode 4 is the movement of natural persons. It refers to the presence of persons of one WTO member in the territory of another for the purpose of providing a service.
- 4 The highest tariffs faced by the UK’s exports into India are in beverages and spirits (around 113%), followed by coffee and tea (around 82.5%) and vehicles (31%); the highest tariff on India’s goods exported into the UK is for dairy products (36.6%), followed by tobacco and its products (around 36%).



SENATOR PETER WHISH-WILSON AUSTRALIAN GREENS

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He holds the Treasury and Healthy Oceans portfolios for the federal Australian Greens party. Peter is an economist by training and, as a lifelong surfer, has a deep love for the ocean and protecting the marine environment.

AN AUSTRALIA-UK TRADE DEAL?

Australia has been in a frenzy of trade deal activity in recent years. Bilaterals with Japan, South Korea and China have been concluded and are well on the way with India, Indonesia and the EU. We were a champion of the US-led, China-excluded Trans-Pacific Partnership (TPP), which got Trumped. But we've hedged, and are also in the China-led, US-excluded Regional Comprehensive Economic Partnership (RCEP) which is close to being finalised.

This has happened since the right-wing (and wrongly named) Liberal Government took power in 2013. They're up for all of the most egregious aspects of corporate led, secretly negotiated, not-really-free, modern trade deals. With the exception of the Japanese agreement, all of the above include or are expected to include Investor-State Dispute Settlement (ISDS)¹ provisions, the outlawing of preference for local procurement, circumvention of labour market testing, fortification of intellectual property monopolies, and weak-as-water environmental chapters.

The empire-loving wing of this Government would dearly love to strike a deal with the UK that replicates their recent accomplishments. But the more worldly members of the Government see an EU agreement as a bigger prize, and are not likely to want to undercut these negotiations.

Irrespective, Australia's ability to exercise any leverage in any trade negotiations with western nations is relatively weak. Australia has been unilaterally reducing tariffs since 1972 such that there are now very few industries that receive any meaningful protection on our shores.

This has led to an odd alignment of politics. The economic liberals who advocate unilateral abolition of tariffs have joined the left and the nationalist right in opposing modern trade agreements. They see them as perversions of free-trade that deliver less economic benefit. For example, the orthodox Productivity Commission, a government agency dedicated to economic policy, has been scathing of modern trade policy, singling out ISDS, the lack of independent analysis, and the spaghetti bowl of bilateral agreements.

This makes for a complicated landscape when considering the prospect of an Aus-UK trade agreement. Australia needs another bilateral agreement like we need a hole in the head. Our future is more Pacific than Atlantic. We really should break free of the mother country.

But with an unusual alliance seeking reform, and the special relationship between Australia and the

“Australia needs another bilateral agreement like we need a hole in the head. Our future is more Pacific than Atlantic.”

“At the time when the global economic order is crumbling we need to remind people that the neoliberalists stuffed it up. They have squandered a period of extraordinary global goodwill by perpetrating a corrupted and secretive version of globalisation that has given rise to the very nationalism it sought to avoid.”

UK—just look at the top left hand corner of our flag—there is an opportunity. The level of trust between the two nations is a strong foundation for an open and transparent negotiation process, modelled around that used by the World Intellectual Property Organisation. The argument that private talks are needed to protect ‘cultural sensitivities’ does not hold.

An Aus-UK deal could be used to reform the Commonwealth treaty-making process. This process is steeped in Westminster tradition of power being vested in the executive who conduct negotiations in secret. But this approach is outdated in the era of modern trade deals that function as a de facto level of government. In Australia, the Greens have pushed for such reforms², including open hearings and parliamentary oversight, but the major parties have been resistant. Whether in power, or waiting for their turn, they want to maintain executive privilege.

A reformed treaty-making process would also need to junk ISDS as we know it. Again, the Greens have sought to outlaw ISDS³, but have been blocked by a duopoly not wanting to offend corporations who like doing their bidding behind closed doors.

An Aus-UK deal could become a model agreement for a new round of multilateral negotiations. But it would have to be a model agreement.

The task is to rekindle faith in global agreements. At the time when the global economic order is crumbling we need to remind people that the neoliberalists stuffed it up. They have squandered a period of extraordinary global goodwill by perpetrating a corrupted and secretive version of globalisation that has given rise to the very nationalism it sought to avoid.

But we can’t reject the premise itself. The future of humankind depends on a successful global climate agreement. A stable global economy that reduces the potential for conflict will require global agreements that have public agency.

Greens voters know this. Our base is skewed towards the young and educated who, thankfully, look out into the world more with hope than with fear.

There’s a vacuum. It will be filled. This is an opportunity to lead.

1 Historically, ISDS was limited to allowing investors to recover losses in the event of their assets being nationalised. But ISDS has morphed in modern trade agreements to allow foreign corporations to seek compensation for loss of expected profits. The threat of this ‘indirect expropriation’ creates a ‘regulatory chill’ that puts a freeze on government’s ability to regulate in the public interest.

The governance of ISDS compounds the problem. The tribunals that adjudicate do not follow basic principles of law. Conflicts of interest do not preclude arbitrators. Lawyers can revolve between representing and adjudicating. And there is no system of precedence. ISDS is creating a private dispute resolution system that is overriding sovereign legal systems. It is an attack on the democratic principles of government and the rule of law.

2 Australian Senate report: Blind agreement: reforming Australia’s treaty-making process, 2015. http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Treaty-making_process/Report

3 Sen. Peter Whish-Wilson, Trade and Foreign Investment (Protecting the Public Interest) Bill, 2014. http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s951



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David Davis, the minister for Brexit, has called the Comprehensive Economic and Trade Agreement between the EU and Canada (CETA) the 'perfect starting point for our discussions' with the EU about a future trade deal with the UK.

Even if this wasn't a commitment, the statement should worry us. Trade unions in Britain and across Europe have been calling MEPs and MPs to oppose CETA as it goes through European and national parliaments due to threats it poses to workers' rights, public services and sovereignty. Negotiated almost totally in secret, and without any meaningful opportunity for trade unions to input, CETA is a bad deal that should not set a template for future trade deals between the EU and UK.

CETA, firstly, fails workers. There is nothing in the deal workers can use to enforce their rights and only requires signatories to uphold basic employment rights. In the context of a UK-EU deal, this would be likely to mean there was no obligation for the UK to uphold key employment rights that derive from EU law - such as those on maternity leave and health and safety – and workers would have no avenue like the European Court of Justice to enforce their employment rights, as workers do now. The same goes for consumer and environmental rights.

Secondly, CETA hands multinational business huge powers to influence our laws. While the deal provides no access to justice for workers, it would set up a special court for foreign businesses to sue governments for passing laws they feel threaten their profits. This is known as the Investment Court System, or ICS. The Dutch company Achmea previously used a similar system to sue the Slovakian government for renationalising parts of its health system. Similar challenges have also been made to overturn laws on environmental protection and consumer safety.

This is likely to make all governments, no matter the political party, less inclined to pass laws multinational businesses don't like. If there was a form of ICS in a future UK-EU deal, the threats to democracy would be even greater. So despite David Davis' promise that Brexit would mean we 'take back control', if he gets his wish and the UK-EU deal looks like CETA foreign businesses based in the EU would be given new powers to challenge Britain's laws via ICS.

Thirdly, CETA makes no economic sense as a model for a future EU-UK deal. CETA only covers certain

“Any post-Brexit relationship with the EU should deliver decent jobs, fairer distribution of wealth and protections for workers, consumers and the environment. Such a deal should ensure tariff-free trade for goods and barrier-free trade for services and ensure the UK continues to comply with EU levels of employment protection, as well as other safety and environmental standards. At present, the TUC believes continued membership of the single market appears to be the best way to achieve this.”

sectors, not the whole economy. A CETA-style deal would therefore mean tariffs were imposed on goods in any sectors not covered and barriers imposed on trade in those services not covered. If the deal isn't comprehensive enough, it could result in tariffs being introduced that will mean price increases on key items in shops.

As the costs of doing business from the UK grow, banks and other companies may also carry out the threats they have made in recent months to leave the UK. Thousands of workers would face unemployment and more families would face increasing hardship.

The alternative

Rather than follow the inadequate model of CETA, the TUC is calling for a change of course. The UK Government must involve trade unions in its negotiations with other EU countries so that any post-Brexit relationship with the EU delivers decent jobs, fairer distribution of wealth and protections for workers, consumers and the environment. Such a deal should ensure tariff-free trade for goods and barrier-free trade for services and ensure the UK continued to comply with EU levels of employment protection, as well as other safety and environmental standards. At present, the TUC believes continued membership of the single market appears to be the best way to achieve this.¹

We have already seen that changes are possible. Mass mobilisations and lobbying succeeded in delaying and amending CETA earlier this year. The TUC is calling on all those concerned about protections for workers, the environment, consumers and, indeed, our democracy to write to MEPs and MPs to oppose CETA in European and UK parliaments and make sure it is not used as a template for future negotiations with the EU.

Workers mustn't pay the price for trade agreements or Brexit, and the UK Government must demonstrate it is negotiating deals that improve workers' lives. CETA and other deals like them will only concentrate power and wealth further in the hands of a few multinational companies, further alienating working class communities whose concerns about jobs, wages and living standards, were made clear in the EU Referendum.

¹ See TUC report 'Brexit: a new deal for workers', 2016. <http://www.tuc.org.uk/international-issues/europe/eu-referendum/brexit-new-deal-working-people>



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OUR PROGRESSIVE VISION FOR TRADE IN AN ERA OF US AND UK RIGHT-WING POPULISM

In a United States election that in many ways mirrored the Brexit vote, Donald Trump exploited the real grievances that many working people feel toward the Democratic and Republican elites who have pushed corporate-rigged trade deals. After living with the consequences of more than 20 years of failed trade policy, many voters – particularly in states that have been hit hard with job offshoring – responded to Trump’s relentless attack on TTIP’s twin for the Pacific, the Trans-Pacific Partnership (TPP).

While Hillary Clinton also opposed the TPP, President Barack Obama’s relentless, high-profile campaign throughout the election to convince Congress to pass the deal served to make the TPP a potent symbol of both business-as-usual in Washington and expanding corporate power. Trump’s victory in midwestern and southern states was accompanied by exit polls showing the power of his attack on failed trade policy.

In both the US and UK, the rise of right-wing populism means that progressive civil society movements have our work cut out for us to provide a vision to those who feel excluded by the status quo ‘trade’ agenda – a vision that names the real corporate culprits instead of appealing to xenophobia and racism. That means telling the story about the demise of the TPP and the faltering TTIP as a product of relentless campaigning by progressive organizations, not by right-wing populist latecomers like Trump. We must remain vigilant to all other efforts to push this corporate-led trade agenda, while exposing the con job to those economically insecure voters when the policies of Trump and company fail to benefit working people.

Reclaiming the narrative: International people power beat multinational corporate power

Trump may bury the TPP when, as promised, he officially withdraws the United States from the deal on his first day in office, but it was progressive people power united across borders that killed the TPP.¹ Strategic international civil society campaigning delayed the TPP’s completion for years beyond its 2012 deadline. That pushed the TPP debate into a period of heightened political accountability of the US presidential and congressional elections. Then, an unprecedented cross-sectoral campaign across the United States ensured that a majority in Congress could never be built to implement the deal.

Thus, the TPP died under the weight of its own terms. Well before Trump’s election, the presidential primary campaign and the halls of Congress resounded with the American public’s rejection of trade proposals that not only failed to live up to the proponents’ promises over the past 20 years, but threatened further damage to working people and the environment.

Similarly, in Europe, the massive progressive anti-TTIP people’s movement deserves credit for that deal’s near-complete demise. When the TTIP negotiations began, our governments claimed they would conclude the deal by the end of 2014. But, relentless campaigning in the UK and across Europe – against the insidious investor-state dispute settlement (ISDS) regime, lowering of food safety standards, and more – forced the European Commission to take positions that were unacceptable to the Washington corporate elites. The negotiations became stuck on a range of issues long before the Brexit vote or Trump election.

“If a US-UK trade deal were to include ISDS more than 15,000 US corporate subsidiaries in the UK would be newly empowered to use it to attack British laws and regulations.”

“US health insurance companies would certainly be eager to gain access to the British National Health Service.”

Remaining vigilant to attempts to revive a corporate-rigged trade agenda

While we recognize these important victories against TPP and TTIP, we know that the corporate trade agenda is not going away. There are powerful economic interests that will continue to push the TPP and TTIP agenda – whether they succeed in reviving those agreements themselves or whether they regroup and push the agenda in other ways. It would be certainly unwise to trust that Donald Trump – himself a walking multinational corporation – would reform the trade agenda in a way that will benefit people and the planet.

Trump and close advisors have said that they would be more inclined to pursue bilateral trade deals, and Republicans in Congress have already expressed support for a US-UK bilateral trade pact. There’s no doubt that such a negotiation would push some of the most radical pro-corporate proposals from TTIP. In that case, British and US civil society would need to mobilize as strategically and effectively as we did for TPP and TTIP.

If a US-UK deal were to include ISDS, for instance, more than 15,000 US corporate subsidiaries in the UK would be newly empowered to use ISDS to attack British laws and regulations, with nearly 10,000 British corporate subsidiaries empowered to use ISDS in the United States. Each of those multinational corporations would gain new rights to sue our governments before a panel of three corporate lawyers. These lawyers can award the corporations unlimited sums to be paid by taxpayers, including for the loss of expected future profits. The corporations need only convince the lawyers that a local, regional or national environmental law, financial regulation or pro-consumer court ruling violates their new rights that the trade deal would grant them. And certainly US health insurance companies would be eager to gain access to the British National Health Service and London and Wall Street financial firms would push their deregulatory agenda in any US-UK trade negotiation.

Therefore, as progressive movements, we must put forward our agenda for new rules of the road² for globalization that provides solutions to economically vulnerable people in our countries, so that we can hold right-wing populists accountable to our vision instead of letting them define that vision. We can no longer allow the trade agenda to be hijacked by corporate interests, so we must demand that the current corporate advisory system be replaced with an on-the-record public process to formulate positions and obtain comment on draft and final text proposals and that negotiated texts be made publicly available after each negotiating round. A more open process would be a first step to crafting deals that eliminate provisions such as ISDS that undermine our democracy and incentivise offshoring and extreme intellectual property rules that increase medicine prices – while instead strengthening food safety, labor rights and environmental protection.

The unprecedented coalitions that stopped TPP and TTIP must be ready to fight back against any attempt to revive those deals or advance other crony-corporate ‘trade’ pacts based on the same failed and outdated model.

1 Arthur Stamoulis, No, Trump Didn't Kill the TPP – Progressives Did, 12.11.2016. <http://medium.com/@citizenstrade/no-trump-didnt-kill-the-tpp-progressives-did-884b534542d#.cc84i0yoz>

2 Jared Bernstein and Lori Wallach, The New Rules of the Road: A Progressive Approach to Globalization, 2016. <http://jaredbernsteinblog.com/wp-content/uploads/2016/09/The-New-Rules-of-the-Road.pdf>

Ed. We have retained US spelling for this article.



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NEW TRADE DEALS – A QUESTION OF DEMOCRACY

During the Referendum campaign, much was made of the possibility for the UK to free itself of the undemocratic control of the EU and to negotiate our own bilateral trade deals, which would lead to greater prosperity for the nation.

These assertions beg many questions about what such trade deals would cover and how democratically they will be decided in the UK.

I want to look at some of the issues raised in discussions around trade deals currently under negotiation between the EU and other countries and see what lessons the UK should be drawing for the UK's future plans.

The controversial and now heavily faltering TTIP (the Transatlantic Trade and Investment Partnership) has been the focus of much heated debate and opposition from parts of civil society, including a European Citizens' Initiative petition of 3,284,289 signatures.¹ Why has a proposed trade agreement raised such concern?

It is a 'new generation' agreement which goes beyond the issue of tariffs to look for agreement on the regulations behind the tariffs and which can be seen as a barrier to trade. The UK Government usually points out issues such as the location of handbrakes on cars as something which could be mutually agreed. TTIP opponents will point to examples such as changing regulations to allow the sale of hormone-treated beef in the EU (currently prohibited) and many other areas of deep concern. Many such regulations have been decided in the EU through the 'ordinary legislative procedure'², which requires the negotiated agreement between 28 national governments in Council and the directly elected European Parliament and also gives civil society a chance to have its say. A Regulatory Co-operation Body would aim to bring the two systems (EU and US) together and this has raised questions about the future role of legislators.

However, the regulatory systems are viewed as being built on different risk management assumptions. The EU's regulation is generally based on the 'precautionary principle' (Art 191 TFEU) which (loosely put) can prevent a particular course of action if there is insufficient scientific agreement to show minimal or no risk to the public, whereas the USA favours the 'innovation' principle, which is that something can be permitted unless harm is demonstrated.

Lack of transparency in the whole process has been a huge concern. The campaign against TTIP has brought changes in Commission practice. After initial opposition from Council, the mandate they agreed as the basis for the Commission to negotiate is now in the public domain and this will apply for all future FTAs (Free Trade Agreements). Certain documents are now available to MEPs under the usual confidential documents rules and copies made available in private reading rooms in all Member States for national MPs to access – the UK's has been one of the last to open.

“What key principles will underlie UK trade negotiations? Will the UK adhere to the precautionary principle or throw caution to the winds in the desire to grab any market opportunity? Will we ensure trading partners adhere to ILO Conventions on labour rights and will we seek to maintain sustainability clauses? Will the safeguarding of human rights have any place in these deals or are universal human rights seen as a barrier to trade?”

The Commission proposed changes to the ISDS (Investor-state-dispute-settlement) which now makes it a more open process in an Investor Court System.³ These proposals followed a public consultation on the topic of ISDS and a European Parliament resolution on TTIP which was also highly critical.

Who decides on the final agreement has also been a question about democracy. The European Parliament has a clear power of consent – and we don’t always say ‘yes’ as the 2012 vote to reject the Anti-Counterfeiting Trade Agreement (ACTA) showed. More recently, the role of national and sub-national parliaments has come to the fore when Wallonia voted to reject CETA (EU-Canada Comprehensive Economic and Trade Agreement) before rethinking their position. As of the time of writing, it is not clear how the European Parliament will vote on CETA.

So, when looking at any future UK bilateral trade agreement, what questions need to be answered?

Who will be making the decisions? The Executive alone or Parliament plus Executive? If we look at the Government reaction to the recent Article 50 court case, it would appear that our national Parliament may be offered a walk-on part rather than any clear decision-making role. If it is to be the Executive alone, how will the people’s voice be heard in the process? What is the role of our devolved administrations?

What key principles will underlie the negotiations? Will the UK adhere to the precautionary principle or throw caution to the winds in the desire to grab any market opportunity? Will we ensure that trading partners adhere to at least the basic ILO Conventions on labour rights and will we seek to maintain sustainability clauses, as EU FTAs now require? Will the safeguarding of human rights have any place in these deals, as happens under the EU’s GSP+ system or are universal human rights seen as a barrier to trade?

On ISDS, the UK has shown itself to be quite a fan and argues that the UK has never lost a case yet. But evidence shows that such cases are increasingly brought by big companies to ‘chill’ future regulation: where the purpose of a challenge is not so much to win the dispute or obtain compensation, as it is to deter further regulation.⁴

Will the Government aim to exclude public services or include them in the mix? Will we use procurement rules to promote green and local social enterprise or aim to cut so-called red tape?

The UK’s entry in to the world of bilateral trade deals will open up major questions about democratic decision making and what sort of values we wish our international trade to promote. Our national Parliament must decide whether the ‘royal prerogative’ is fit for a modern democracy.

1 See <http://stop-ttip.org/>. The European Citizens’ Initiative (ECI) was refused by the European Commission as being outside the scope set down by law. See <http://ec.europa.eu/citizens-initiative/public/initiatives/non-registered/details/2041>.

2 Consolidated version of the Treaty on the Functioning of the European Union: Article 294 (ex Article 251 TEC). See http://www.europarl.europa.eu/external/html/legislativeprocedure/default_en.htm.

3 European Commission press release, 16.09.2015, Commission proposes new Investment Court System for TTIP and other EU trade and investment negotiations. http://europa.eu/rapid/press-release_IP-15-5651_en.htm. But also see Friends of the Earth Europe et al, 2016, Investment Court System put to the test: New EU proposal will perpetuate investors’ attacks on health and environment. http://www.foeeurope.org/sites/default/files/eu-us_trade_deal/2016/icstest_web.pdf

4 Pelc, Does the Investment Regime Induce Frivolous Litigation? <http://politics.as.nyu.edu/docs/10/42486/frivolity.pdf>



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MORE THAN JUST NEIGHBOURS

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For the Greens/EFA group in the European Parliament, the Brexit vote was a huge blow. For us, the European Union is the place where we work together for a better future and it hurts me that one Member State decided by majority not to be part of that common future. We will lose a Member State that was very important in the history of Europe, that benefited from Green achievements like much improved environmental protection. We will lose six energetic MEPs from our Greens/EFA group in the European Parliament. We will be poorer without you.

We need to respect the outcome of the Referendum, however we also need to respect that 16 million (48.1%) voted to stay. Especially among young people, the support to remain was substantial. We cannot ignore those people when we are building our new relationship.

Greens therefore want the UK to continue to have the closest possible relationship with the EU. But it's also clear that we need to have a complete package. No state can pick and choose among the four freedoms of the European Union. Access to the single market can only be given when the freedom of movement and the freedom to carry out economic activity is also guaranteed for EU citizens. It is alarming to see that there are forces in the UK and elsewhere in the EU who want to have goods, capital and services floating freely across borders, but do not want to grant this freedom to citizens. The EU is after all built for the people living in it. We're not in it for the economy only and the EU can never be reduced to a free trade area.

We can also not forget that we have UK citizens living and/or working elsewhere in the European Union at the moment as well as EU citizens who work and/or live in the UK. They have moved in the expectation that the status of the UK will not change. They have settled, built a career and created a family. We cannot uproot those people and we cannot make them a bargaining chip in the talks between the European Union and the UK. Their rights must be guaranteed.

The EU is still the UK's biggest trading partner in 2015. 44% of the UK's exports in goods and services went to the European Union, while 53% of the UK's imports came from countries of the European Union. Only 17% of the European Union's external exports go the UK.

But we share much more than just trade relations. That's why we should not retreat to only having a bilateral free trade agreement. The British Isles aren't going to move away and we need to have the best neighbourly relations possible.

UK TRADE AFTER THE BREXIT VOTE

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