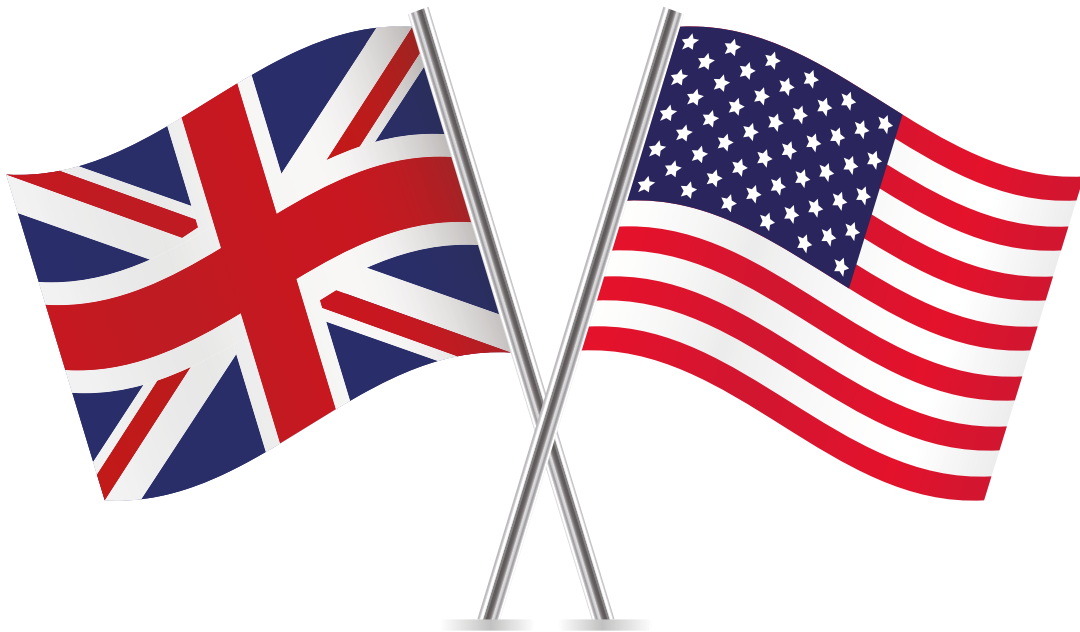


RIGHT TO THE FRONT OF THE QUEUE:

KEY ELEMENTS OF A NEW US/UK FREE TRADE AGREEMENT

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1. EXECUTIVE SUMMARY

President of the USA Donald Trump: “I think the relationship is going to be much better, much stronger than it is right now. You would certainly not be back of the queue, that I can tell you...We’re gonna work very hard to get it done quickly and done properly”
Prime Minister Theresa May - “I am delighted that the new administration has made a trade agreement between our countries one of its earliest priorities. A new trade deal between Britain and America must work for both sides and serve both of our national interests.”

Marcus Rubio, Senators Lee and Cotton also support a fast track US/UK trade deal along with Congressmen Poe of the Foreign Affairs Committee and House Speaker Paul Ryan.

The USA is Britain’s top export destination and the UK’s second-largest trading partner. There is \$588billion of US investment in the United Kingdom whilst the UK had invested up to 2014 some \$449 billion into the American economy.

The UK already exports more to the USA than to Germany and has a trading surplus with the USA in contrast to a large deficit with the EU.

The CBI found that the UK remains the largest foreign investor in the US manufacturing sector, investing \$180 billion in 2014. In the UK, over a million Britons work for American companies.

In 2013, the UK represented the Americans’ second largest services market in the world. The CBI found that American exports to the UK came to \$123 billion in 2015 making Britain the fourth largest destination for US exports for a second year running.

A Fast Resolution Trade Agreement - A Quick Limited Trade Deal

Zero tariffs and market access - The US/UK trade deal will lower or remove all duties, taxes or other import fees for goods between the US and the UK, and many can be done immediately. An added benefit to note is that such a clause would seek to reduce or remove quotas altogether.

Trade remedies and World Trade Organisation (WTO) rules - The US and the UK would reconfirm their rights and commitments under WTO rules here.

Co-operation over technical barriers to trade - The US and the UK should follow the World Trade Organisation agreement initiative to remove or reduce technical barriers to trade longer term, by committing to working more closely together in a voluntary way.

Customs and trade facilitation - In order to streamline customs procedures and make them more efficient.

Sanitary and Phytosanitary measures - This would cover both food safety and animal and plant health.

Investment and Investor Dispute Settlement - This would set out measures to open up investment between the US and the UK, and protect investors and ensure that Governments treat them fairly.

Cross-border trade in services - This would make it easier for UK individuals and companies to provide services to American customers, and vice versa for the US.

Mode 4 temporary business visa entry - This WTO driven clause is intended to provide legal certainty for trained workers, who temporarily enter the UK or the United States to do business.

Mutual recognition of professional qualifications - This will be crucial to a post 'Brexit Britain' owing to the fact that professionals from the EU may seek to return to the continent, citing potential uncertainty over visa arrangements. It would also address effective discrimination against American professionals wishing to work in the UK, and allow the UK to endorse a more global outlook.

Financial services - This clause would also enable financial institutions and investors in the UK and the US to benefit from fair, equal access to each other's markets.

Rules of Origin - These are the rules by which products can be assessed for customs and duty purposes as to what they can count as having been made in the UK or made in the USA, particularly where there is a complex inclusion of components from other non-US or non-UK countries.

State Owned Enterprises - The rules will be framed to ensure that both parties have the full freedom of choice in the way they provide public services to their citizens.

Electronic Commerce - This clause covers any business done electronically (e.g. online shopping). It includes rules that ensure that personal information on the internet is protected and that online services will not include customs duties. It recommends customs duties on electronic deliveries; trust and confidence in electronic commerce.

New Aviation Agreement between the US and UK - Whilst requiring a separate free standing bilateral agreement, this clause is a reminder of the importance of the retention of the benefits of the US-EU 'Open Skies' transport access agreement.

Relevant Common Tax Reform - This refers to cooperation over where companies levy profits and where they sell products in order to address anomalies and to encourage the easier repatriation of profits to both jurisdictions or between the UK and US jurisdictions in relation to trade.

The Longer Term Trade Agreement

In the longer term second trade deal, it may contain clauses such as: Subsidies; Competition policy; Telecommunications; Domestic regulation; Intellectual Property (IP); International maritime transport services; Administrative and institutional Provisions; Bilateral dialogues and cooperation; Exceptions and Other technical and standard clauses.

The Strategic Partnership

Of equal importance is a potential separate political agreement known as a 'Strategic Partnership' that could be negotiated in parallel. This could form a Transatlantic bridge between the US and EU via the UK, including but not limited to, co-operation, research, crime prevention, and possible institutions such as a US-UK Joint Ministerial Committee and US-UK Joint Cooperation Committee.

2. FAST FORWARD TO A US-UK TRADE DEAL: THE POLITICAL IMPERATIVE AND SETTING

The political context and realities are extremely encouraging for such a US-UK Free Trade Agreement. These are a selection of relevant comments:

- **Former President of the USA Barack Obama threatened to marginalise the UK if it voted for Brexit**

“Britain will go to the back of the queue” for trade agreements¹.

- **But the President of the USA Donald Trump backs a fast trade deal**

“I think the relationship is going to be much better, much stronger than it is right now. You would certainly not be back of the queue, that I can tell you.”²

We’re gonna work very hard to get it done quickly and done properly. Good for both sides.”³

- **Rt Hon Theresa May MP, Prime Minister, highlighted a trade deal in her speech to the Republican Conference in Philadelphia, 26th January 2017**

“I am delighted that the new administration has made a trade agreement between our countries one of its earliest priorities. A new trade deal between Britain and America must work for both sides and serve both of our national interests. It must help to grow our respective economies and to provide the high-skilled, high-paid jobs of the future for working people across America and across the UK.... And it must work for those who have too often felt left behind by the forces of globalisation.

Because of these strong economic and commercial links – and our shared history and the strength of our relationship – I look forward to pursuing talks with President Trump and his new administration about a new US-UK free trade agreement in the coming months. It will take detailed work, but we welcome your openness to those discussions and hope we can make progress so that the new, global Britain that emerges after Brexit is even better equipped to take its place confidently in the world.”

1 (Source: <http://www.dailymail.co.uk/news/article-3772981/Defiant-Obama-insists-Britain-queue-trade-deal-denies-wants-punish-Brexit.html>)

2 (Source: Good Morning Britain 15.5.2016)

3 Source - <http://www.itv.com/news/2017-01-15/donald-trump-wants-fair-uk-trade-deal-very-quickly/>

- Congress has already seen a number of initiatives to support a US-UK trade deal:

House Speaker Paul Ryan (on a US-UK Trade bill in Congress) is quoted as wanting US officials to start working on an agreement right away to show “solidarity with Brexit Britain.”⁴

In the Senate, the UK Trade Continuity Act would have forced the US Government to continue all existing trade deals with the UK as if it were still a member of the EU. This was introduced shortly after the Brexit vote. The two co-sponsors of this legislation were **Senator Lee** (R-UT) and **Senator Cotton** (R-AK)⁵.

Senator Lee explained: “Our nation’s special relationship with the UK has promoted economic prosperity and security in both countries for over a hundred years...This relationship can and should be preserved, which is why we have introduced legislation that would minimize uncertainty and promote stability as the UK declares their independence from the European Union.”

Senator Cotton added: “The UK has stood with us at the front lines of battle, and it should therefore be at the front of the line for a free trade agreement that benefits both our nations... At this time of transition for our ancestral ally, it is in our deepest interest to reaffirm the Special Relationship. And it is my hope that our other European allies will also move in the spirit of magnanimity, generosity, and continued friendship as they negotiate new partnerships with the United Kingdom.”

A second action was a resolution by former Republican Presidential candidate **Marco Rubio** which urged then President Obama to strengthen US trade links with Britain post Brexit. Mr Rubio urged Congress to introduce a new free trade agreement between the two nations if it is not possible to continue with the current bilateral trade relationship following Britain’s exit from the EU⁶.

In addition, **Ted Poe**, member of the House Foreign Affairs Committee called the prospective bilateral trade deal as a way to “deepen our alliance even further”. **Nile Gardiner of the Heritage Foundation** who spoke at the committee hearing into the likely ‘new trans-Atlantic partnership’ between the US and post Brexit UK said that he believed that such a deal could be done within in months, even in 90 days. This would occur once the UK had left the EU⁷.

4 (Source: Daily Telegraph 26/11/2016)

5 (Source <http://www.breitbart.com/london/2016/07/01/u-s-senators-lee-cotton-introduce-bill-protect-uk-trade-brexite/>)

6 Source - 7th July 2016 - <http://www.telegraph.co.uk/news/2016/07/07/marco-rubio-urges-american-senate-to-secure-special-relationship/>).

7 (Source - The Telegraph 1.2.2017)

3. INTRODUCTION BY DAVID CAMPBELL BANNERMAN MEP

The only place I have seen an original Magna Carta was in the Smithsonian Museum in Washington DC. It was accorded with more reverence and understanding than in its birthplace, so much so that the Runnymede memorial where the charter was signed is sponsored by the American Bar Association, a recognition of shared legal traditions such as trial by jury, the presumption of innocence, case law and Habeas Corpus. Our two nations share a tradition dating back to the rule of King Ethelbert of England around 604 A.D.

The term 'Special Relationship' may, like a favourite coat, be frayed in its wearing since the genetically transatlantic Winston Churchill first used the term in 1944, and is frequently attacked by liberal elites who sneer at the USA and hold Britain back. But the concept is no illusion and remains fundamentally true.

It is a very strong relationship based on close political, defence, cultural, economic and diplomatic ties. Margaret Thatcher noted of the relationship that "the Anglo-American relationship has done more for the defence and future of freedom than any other alliance in the world". The State Department notes on their website that 'the United States has no closer ally than the United Kingdom, and...bilateral cooperation reflects the common language, ideals, and democratic practices of the two nations.'

It is revealed in the intimacy of defence cooperation sharing secrets and with military units fighting side by side in two World Wars, the Korean, Gulf, Iraq and Afghanistan Wars, as well as combating terrorism throughout the world. Post 9-11, it was seen in the Queen playing the Star-spangled Banner at Buckingham Palace, the first time a non-British anthem was ever played, in the huge sense of personal loss in the City of London at the attack on Wall Street, and is etched in the ceiling graffiti of the Eagle Inn, Cambridge by many US airmen who flew from East Anglia.

It is reflected too in the carbon copies of Oxford and Cambridge colleges at Harvard (Cambridge), Yale, Dartmouth and in the 1740 University of Pennsylvania, where I was a Wharton student, and whose founder and personal inspiration Benjamin Franklin epitomised transatlantic bonds before and after the US's Declaration of Independence, and are reflected now the UK has achieved its own Declaration of Independence from the EU.

It is echoed too in the cultural links, with publishing and media widely fused, whilst each of our countries is the other's biggest market for TV, film production and distribution. It is in the music and dramatic culture, in the collaboration of British and American stars in Hollywood blockbusters, and in the use of so many British stories or productions such as Harry Potter, James Bond, 'Downtown Abbey', or even the 'Great British Bakeoff'.

It is personally confirmed in the volume of phone calls, emails and cards crisscrossing the Atlantic daily, or found in the 10 Londons, seven Edinburghs, eight Cardiffs, 12 Belfasts and 36 Richmonds present in the US. It is reinforced in up to 1.4 billion people who speak our common English language. It is celebrated in the Scottish and Irish pipe bands from Seattle to Pennsylvania, in Presidential links to the UK - from President Trump's Scottish mother, who adored our Queen, to President Clinton's Ulster Scots roots⁸ to the Bush's English and UK roots, and a diaspora of tens of millions in the USA who identify themselves as having Scottish or Scots-Irish ancestry⁹.

Then of course it abides in the economic ties, where the USA and the UK are each other's largest investor country; America is Britain's top export destination and the UK's second-largest trading partner. It is in the \$5.88 trillion of US investment in the United Kingdom, and the fact that the UK is the largest investor in the USA, and the US the largest in the UK, all despite 43 years of EU membership. Any survey of Anglo-American trade shows that our economies are collaborative not competitive. Brexit brings many global opportunities for the United Kingdom but the reaffirmation and deepening of the relationship between Britain and America through a new US-UK bilateral trade deal has to rate as the most natural, benign and highest priority of them all.

8 Source - <http://www.scotsman.com/heritage/people-places/the-us-presidents-with-the-strongest-scottish-roots-1-4040687>

9 (Source - <http://www.scotsman.com/news/the-scottish-diaspora-how-scots-spread-across-the-globe-1-4011012>)

4. BUILDING ON SUCCESS - THE ECONOMIC, TRADE AND STRATEGIC BONDS BETWEEN THE US AND UK EXISTING NOW

Before considering how the special relationship can be widened and deepened through a formal new trade deal, it is worth taking stock of the existing host of connections and links which this deal can build upon, many of which are not sufficiently recognised. These include:

The US and UK already work closely at international level in numerous global organisations

- The State Government noted the following on the links that the two countries enjoy in the international arena. It stated that ‘The United Kingdom and the United States belong to a number of the same international organizations, including the United Nations, North Atlantic Treaty Organization, Euro-Atlantic Partnership Council, Organization for Security and Cooperation in Europe, G-20, G-8, Organization for Economic Cooperation and Development, International Monetary Fund, World Bank, and World Trade Organization¹⁰.’

The US and UK enjoy extensive and privileged defence and intelligence cooperation

- In recognition of the two nations close military relationship, the UK was the only Level One, international partner in the F-35 Lightning II program which was one of the biggest procurement projects in American military history, and which is now to be accelerated following the Prime Minister’s visit to the USA.
- Moreover, the UK’s privileged access to US technology and equipment means that the UK secures stealth and cruise missile technology, exclusively or generally well in advance of European counterparts¹¹.
- In 2012, the UK was awarded ITAR exemption, allowing for increased privileged access to US technology, under the understandable proviso that it was not re-exported. Only Canada and Australia share this level of access with the UK¹². This is not awarded to fellow EU countries such as France and Germany.
- After World War II, the security concerns of the Cold War led to the signing of the ‘British-US Communication Intelligence Agreement’ which was later summarised as UKUSA. This introduced a global network of listening posts which was initially run by the UK’s GCHQ, and its US equivalent, the National Security Agency¹³. It was later extended to include Canada in 1948, and Australia and New Zealand in 1956 and is now known as ‘Five Eyes’¹⁴.

10 (Source - <https://www.state.gov/r/pa/ei/bgn/3846.html>)

11 (Source - ‘Time to Jump’ by David Campbell Bannerman)

12 (Source: ‘Time to Jump’ by David Campbell Bannerman)

13 (Source - <https://www.theguardian.com/world/2010/jun/25/intelligence-deal-uk-us-released>)

14 (Source - <http://www.pbs.org/newshour/rundown/an-exclusive-club-the-five-countries-that-dont-spy-on-each-other/>)

The US is the largest investor in the UK; the UK is the largest investor in the USA employing around a million people each way

- The USA is Britain's top export destination and the UK's second-largest trading partner. There is \$588billion of US investment in the United Kingdom¹⁵.
- As the BBC reported in 2016, 'the US and the UK are each other's largest foreign investors' and this¹⁶ investment supports some one million jobs in each partner. The CBI found that that the UK has invested some \$449 billion into the American economy and \$180billion in 2014 alone¹⁷.
- The Peterson Institute for International Economics found that 'the US direct investment stock in the United Kingdom was valued at \$588 billion in 2014' and 'direct investment by UK companies in the United States was worth of \$449 billion in 2014'.
- The CBI found that the UK 'remains the largest foreign investor in the US manufacturing sector, investing \$180 billion in 2014¹⁸. In the UK, over a million Britons work for American companies¹⁹.
- By 2014, the UK had invested some \$449billion into the US, in contrast to the Chinese investing \$100billion into American physical assets by 2016. This means that the UK has invested some four times that of China into the American economy (allowing for annual comparison differences)²⁰.

15 The Independent - 19th June 2016 - <http://www.independent.co.uk/news/uk/politics/brexit-eu-referendum-how-would-affect-us-economy-pound-dollar-single-market-trade-investment-a7090256.html>

16 (Source - <http://www.bbc.co.uk/news/business-36123622>)

17 Source - <http://www.cbi.org.uk/news/uk-tops-out-as-largest-foreign-investor-in-usa-at-449-billion-cbi/>

18 (Source - <http://www.cbi.org.uk/news/uk-tops-out-as-largest-foreign-investor-in-usa-at-449-billion-cbi/>)

19 (Source - <http://www.hifx.co.uk/blog/author/home-user/> - HIFX Foreign Exchange - describes themselves thus - Money transfers, international payments & foreign exchange dealing services from the UK's leading independent currency exchange experts at HIFX) and Daily Telegraph of February 2017 put figure at 1.25million Britons working for US affiliates - <http://www.telegraph.co.uk/news/2017/02/01/us-trade-deal-uk-could-take-place-next-two-years/>

20 (Source - Peterson Institute for International Economics - <https://piee.com/research/piee-charts/us-uk-trade-and-foreign-investment> The Institute - private nonpartisan nonprofit institution for rigorous, intellectually open, and indepth study and discussion of international economic policy. based in Washington DC and Financial Times of January 2nd 2017 - <https://www.ft.com/content/b0cc57c8-d09f-11e6-9341-7393bb2e1b51>)

The UK already exports more to the USA than to Germany²¹ (despite 43 years as an EU member), and has a trading surplus with the USA in contrast to a large deficit with the EU

- The US is the UK's biggest export destination whilst the US is the third biggest exporter to the UK, after Germany and China²². The United States actually had a goods deficit of \$3 billion with the UK in 2015. Total trade in goods with the UK made the UK America's 7th largest trading partner last year (2015)²³. In 2013, the US sold more services than goods to the UK which represented the Americans' second largest services market in the world – ahead of such countries as Japan and China and behind only Canada. In its turn, the US is the biggest export market for the British services sector²⁴.
- Both countries similarly rely on services to offset their goods trade deficits. For the US, their total goods and services deficit was \$531.5 billion. Their goods deficit was a colossal \$758.9 billion and it was only partially offset by a services surplus of \$227.4 billion²⁵.
- The EU was the US's biggest goods partner with goods exports totalling \$273 billion whilst imports totalled \$426 billion. Therefore, the U.S. goods trade deficit with the EU was \$153 billion in 2015. The U.S. goods trade deficit with the EU accounted for 20.8% of the overall U.S. goods trade deficit in 2015. On the other hand, US services exports were \$219 billion whilst imports were \$169 billion. This means that the U.S. services trade surplus with the EU was \$51 billion in 2014²⁶. Currently, the UK has a small trading surplus with the US of only \$4.5billion²⁷ which represents a tiny fraction of the total. In contrast, in 2015, the UK had a goods trade deficit with the EU of £89 billion but a services trading surplus of £21 billion²⁸.
- The CBI also found that 'American exports to the UK came to \$123 billion in 2015 – up \$5 billion on 2014 – making Britain the fourth largest destination for US exports for a second year running, and the largest within the European Union by a substantial margin', which underlines the importance of British-American trade.
- The reliance on services to offset the goods deficit means that both the US and the UK have a mutual interest in working together to encourage the EU to open up the EU single market in Services which has barely changed in the last twenty years²⁹.

21 Source - <http://www.worldstopexports.com/united-kingdoms-top-import-partners/> Top Destination for UK Exports – 1. United States: US\$66.5 billion (14.5% of total UK exports) 2. Germany: \$46.4 billion (10.1%) 3. Switzerland: \$32.2 billion (7%) 4. China: \$27.4 billion (5.9%) 5. France: \$27 billion (5.9%)

22 (Source - <http://www.bbc.co.uk/news/business-36123622>)

23 (Source - <https://piie.com/research/piie-charts/us-uk-trade-and-foreign-investment>)

24 (Source - <http://www.forbes.com/sites/dinamedland/2014/08/08/the-ties-that-bind-uk-is-the-largest-foreign-investor-in-the-us-by-far/#4cb718c79698>)

25 Source - <https://www.bea.gov/newsreleases/international/trade/2016/trad1215.htm>

26 Source – Office of the United States Trade Representative - Executive Office of the President - <https://ustr.gov/countries-regions/europe-middle-east/europe/european-union>

27 (Source - <http://www.tradingeconomics.com/united-kingdom/balance-of-trade>)

28 Source - <https://fullfact.org/europe/uk-eu-trade/>

29 Source - <http://fortune.com/2016/09/20/brexit-ttip-eu-trade/>

The US and UK are intimately bonded in the music, film, entertainment and games industries

- In 2016, a US market report on Media & Entertainment Report stated that ‘Of the top seven markets, the UK ranked first, followed by China, Canada, India, Brazil, Mexico and Germany.’ Production is a huge earner for the US economy as it generated a trade surplus of \$16.3 billion in 2014 (latest available data). This Report puts the UK in second place (to China) as the top market for US exporters for Video Games and Filmed Entertainment and second only to Germany in Music Licensing. Only in publishing, does the UK come third to Germany and China in that order³⁰.
- Both the UK and the US are major players in Intellectual Property (IP) and trade extensively with each other in every sector from books to games. For example, the USA remained the UK’s largest export market in TV exports with sales totalling £407million. France was some distance behind on £69million.
- The UK Games and interactive entertainment trade body (UKIE) reports that the UK is believed to have ‘the 6th largest video game market in 2015 in terms of consumer revenues after the following countries - China (ranked 1st now), USA, Japan, South Korea and Germany.’ This is because the UK industry is worth around £3.8billion³¹.

5. FRAMEWORK FOR A FAST TRACK US-UK FREE TRADE AGREEMENT (FTA)

5.1 THE APPROACH

This paper separates a proposed short term, fast track trade deal from the longer term, more considered elements of a fuller, more ambitious trade deal. The intention is that the desired short term deal would include the short term measures listed but that a deeper and more comprehensive deal can follow at a later date, perhaps a few years behind the initial deal. Such a negotiation for an immediate short-term deal would be envisioned to last no more than 180 days. In short we should go for the lower hanging fruit and be prepared to leave fruit on the tree.

Trade agreements are by nature unavoidably technical and legalistic, but any meaningful analysis of a deal must centre not on vague generalities but on the core elements, focusing on their broader benefit, impact and meaning.

Whilst the average UK/US tariff is under 3%, this agreement could seek to introduce the Canadian-EU CETA deal style clear out of tariffs as a rapid priority (CETA delivers 99% access for non-agricultural goods and 92% for agricultural goods). Significant

30 (Source - International Trade Administration, 2016 Top Markets Report Media and Entertainment - A Market Assessment Tool for U.S. Exporters. Published by U.S. Department of Commerce | International Trade Administration Industry & Analysis (I&A) - October 2016)

31 Source - <http://ukie.org.uk/research> and UKIE December 2016 Factsheet)

ones include on cars (10%), agricultural goods and clothing such as US jeans (12% tariff).

In 2015, both the US and the UK had a huge goods trade deficit with the EU of £153bn and £89billion respectively and relied on surpluses from services trading to bring the overall goods and services trading deficit down.

The reliance on services to offset the goods deficit means that both the US and the UK have a mutual interest in encouraging the world and the EU to open up their services sector to international competition.

Considering the similarity of their respective interests, agreement is likely to be swift on the following issues between the two nations: Rules of Origin, Financial Services, Mutual Recognition of Qualifications, Working Visas and Border Control, Investment Protection, Sanitary and Phytosanitary Measures, dismantling Technical Barriers to Trade and the general Reduction of Tariffs.

5.2 SECTIONS AND CLAUSES OF A FAST TRACK US-UK TRADE DEAL - INTRODUCTION

This section sets out some potential elements by way of legal clauses that might be included in a new fast track US-UK trade deal, i.e. the priorities for a trade deal which should be deliverable in a short timescale.

These are based on my direct experience of a range of EU and other trade agreements. In particular this draws from Canada's new Comprehensive Economic and Trade Partnership (CETA) with the EU, which I was a Shadow Rapporteur on, and which the Canadian Government reports that the WTO regards as the 'gold standard' for world trade deals at this time.

The next section (6) lists more complex clauses which may take much more time to negotiate and agree, or involve greater changes such as legal provisions. Some clauses are listed as standard for international agreements or whose content is explained in other clauses.

5.3 TOWARDS ZERO TARIFFS: NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

This central clause, taken from the CETA Agreement, describes how the US-UK trade deal will lower or remove all duties, taxes or other import fees for goods between the US and the UK, and most can be done immediately. Significant ones include on cars, agricultural goods such as beef and cheeses, clothing such as US jeans (12% tariff). Also this clause covers a reduction or removal of quotas, i.e. numerical or quantity controls, subject to restrictions on food preparation methods.

Both the US and the UK commit to treating the goods they import from each other no less favourably than goods made domestically. The clause also outlines certain restrictions and controls that US-UK trade deal would put or keep in place, such as to protect both sides' rights as WTO members or ensure the origin of the goods they import. These may include:

- National treatment;
- Reduction and elimination of customs duties on imports;
- Duties, taxes or other fees and charges on exports;
- Temporary suspension of preferential tariff treatment;
- Import and export restrictions;
- A committee on trade in goods.

5.4 TRADE REMEDIES - WORKING TO WTO RULES

The UK and the UK would reconfirm their rights and commitments under WTO rules here. These rules mean that each WTO member can counteract the negative effects of unfair trade practices on their domestic industry, for example, if another member 'dumps' goods on its market at below the cost of production, or subsidises production of those goods. These practices are unlikely to be relevant in the US/UK trade situation. These sectors/clauses include:

- Rules on transparency;
- Investigations launched into possible cases of unfair trade practices;
- Measures taken to counter them;
- Mechanisms for consultation and information sharing to avoid these from occurring;
- Anti-dumping and countervailing measures;
- Consideration of public interest and lesser duty.

Following Brexit the UK will be free to open up its markets in those products that aren't produced in the UK to American producers. These include bananas, which are severely limited to protect Spanish and other EU producers, and were the subject of a US-EU trade war and subject to WTO action.

5.5 TECHNICAL BARRIERS TO TRADE (TBTs) - WTO AGREEMENT

The EU suffers from gross overregulation, especially compared to US regulatory systems. The leading think-tank Global Britain found a figure of 7% GDP (£98billion) of overregulation. Overregulation has even admitted by the EU itself: EU Commissioner Verheugen in 2006 revealed the EU was overregulated relative to the USA by €600 billion Euros, with the UK being overregulated by €100 billion Euros comparatively alone. These do have a relevance to technical barriers to entry.

Whilst the Author is not advocating the UK should adopt lighter forms of US regulation full scale, the UK will have the opportunity to comprehensively review EU regulation after Brexit - especially having decided to leave the common regulatory regime known as the internal or single market, and to leave the EU customs union which requires the imposition of EU determined tariffs and quota restrictions on US and non-EU goods. In the short term however, the collection of all the EU's mass of regulations - its *Acquis Communautaire* - will be gathered together and turned into the UK's Great Repeal Act, so substantial regulatory amendment and repeal may require white papers and a longer time scale.

But such repeals should provide substantial efficiencies for the 90% part of the UK economy that does not trade with the EU (international trade is only 20% UK economy in total and the EU around 10%) – as these would no longer be forced to apply EU laws for those exports not going to the EU. This can be achieved without watering down important standards - for example by removing the Working Time Directive that undermines the UK National Health Service (NHS), the Clinical Trials Directive that has caused many clinical trials to disappear from the UK, or the Reach Directive which has damaged the European chemicals industry.

In this clause, the UK and the UK should follow the WTO agreement initiative to remove or reduce technical barriers to trade longer term, by committing to working more closely together. But this would be in a voluntary only way, such as on technical regulations for testing and certifying products, and this should never be used in any way force the US or UK to lower their standards.

The overall aim would be to enable US and UK regulators to seek regulatory equivalence post Brexit, particularly in high value areas, and to educate each other's regulatory systems. But there should be no heavy handed dictation, legal intervention or interference, thereby avoiding costly, damaging and lengthy attempts at harmonisation of standards. Harmonisation is not desirable or necessary. Such a clause should be confined in this faster trade deal to:

- Exchanging regulatory experiences and information;
- Identifying areas where regulators could cooperate more closely.

5.6 CUSTOMS AND TRADE FACILITATION

This clause aims to streamline customs procedures and make them more efficient, as the WTO's significant new trade agreement (Trade Facilitation Agreement (TFA)) on customs costs expedites the 'movement, release and clearance of goods'³² one which claims to save more cost than all existing world tariffs. The British Prime Minister has also proposed a new customs agreement between the UK and EU and of 'frictionless' movement of goods (in her speech of 17th January 2017)³³.

This could be a similar initiative in a US/UK deal. This would ensure:

- Transparency – e.g. making customs requirements public, and providing information online;
- Risk-based procedures – e.g. risk management and pre-arrival processing rather than requiring each shipment offered for entry to be examined;
- Certainty and predictability – e.g. a transparent, efficient appeals process, reliable advance rulings on tariff classifications. These include: Customs valuation; Classification of goods; Fees and charges; Risk management; an Automation and Joint Customs Cooperation Committee.

³² The TFA came into force on the 22nd February 2017. The WTO explains its purpose here - https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

³³ Source - <http://edition.cnn.com/2017/01/17/politics/brexit-theresa-may-speech/>

5.7 SANITARY (food safety and animal health) AND PHYTOSANITARY (Plant health) SPS MEASURES

One of the most controversial areas of a UK-US trade deal is likely to be regarding what are acceptable food preparation measures. Already the BBC has questioned whether chlorine cleaned chicken and hormone growth products in meat production could be allowed under such a deal, and this could be an area of significant opposition to such a trade deal, indeed a potential dealbreaker. Hormones in beef is also a big dispute at WTO level.

The author suggests that discussions on such matters, based on factual science not speculation, will take a longer timeframe, and that for the initial trade deal, existing UK-enacted EU standards be adhered to, which would not allow such treatments. It is also the case that existing EU standards will have to be incorporated into the downloading of the entire body of EU law – the Acquis – into UK law through the Great Repeal Act, and that changes will need a longer timeframe. The suggestion is for a review of SPS measures after 5 years once the initial agreement has been enacted. The clause itself would cover both food safety and animal and plant health. This applies to animals and any products made from them. It also ensures that measures by either partner to ensure food safety and animal and plant health are not used to create unjustified hidden barriers to trade, but rather that they facilitate trade. As the UK will be leaving the EU Single Market, the UK will regain control of product labelling and standards in its own single market – the British market. This will allow the UK over time to label products with GMO content for example clearly and explicitly, with the consumer having the right to buy or not on that basis. This may be more effective than the current approvals system which is not functioning satisfactorily.

These SPS measures would cover:

- Adaptation to regional conditions;
- Equivalence (between US and UK standards but involving flexibility in production methods);
- Trade conditions;
- Audit and verification;
- Export certification;
- Appropriate labelling;
- Import checks and fees;
- Emergency SPS measures.
- The right of veto by both parties over any discussion on particular SPS measures that in the vetoing country's view is a red line item, such as over biotech concerns.

The US and UK have the option of following the recommendations of the US/EU High Level Working Group (HLWG) on Jobs and Growth Report which recommended an ambitious 'SPS-plus' clause, including establishing an on-going mechanism for improved dialogue and cooperation on addressing bilateral Sanitary and Phytosanitary (SPS) issues.

This would build on the key principles of the WTO SPS agreement. Indeed, as regulation

becomes ever more global, a US and UK trade deal would very often reflect the regulations agreed at such fora as UNECE (United Nations Economic Commission for Europe), IMO (International Maritime Organisation) and others.

The EU and the US have a long history of negotiating measures in this field which forms a potential basis for a US/UK deal. It should be noted, of course, that such a deal would exclude any measures that conflicts with British or American interests.

Post Brexit, the UK will also be free to debate an alternative stance to the EU on issues such as Genetically Modified Organism (GMO) crops. The UK will be free to set its own policy without regard to the EU's approval system and the opposition of certain EU Member States to such innovations, should this be the wish of Westminster.

5.8 INVESTMENT AND INVESTOR DISPUTE SETTLEMENT MEASURES

Whilst the US is already the largest investor in the UK and the UK the largest investor in the US, yet more investment can be encouraged, particularly in the light of proposed Presidential policies aimed at encouraging large corporations to return more proceeds and pay more into the US in return for reduced tax rates. The US and UK can move to greater cooperation and bonding.

This clause would aim to set out measures to open up investment between the US and the UK, and protect investors and ensure that governments treat them fairly. This includes:

- removing barriers to foreign investment, such as foreign equity caps or performance requirements;
- allows UK investors to transfer their capital in the United States back to the UK, and vice versa;
- puts in place transparent, stable and predictable rules governing investment;
- guarantees that the government will treat foreign investors fairly;
- dispute settlement.

Regarding Investor State Dispute Settlement (ISDS), we do not recommend either the usual ISDS, which was one of the key reasons the TTIP EU-US deal failed and also which formed the centre of major political opposition in the UK and EU to free trade, and which President Trump has himself questioned in broad terms. Nor do we recommend the alternate Investment Court System (ICS) used in the Canadian-EU CETA deal, which proved to be more acceptable to the EU but still has major limitations with regard to a US-UK deal.

Instead we envisage the establishment of a US-UK arbitration system drawing on a roster of judges where one third are US arbiters, one third UK arbiters and the remaining third neither UK nor US arbiters, who would chair all dispute arbitration. This model would require further development and enhancement but this arrangement would recognise existing proven and robust legal systems in both the UK and USA, based on a common legal heritage, whilst seeking to avoid any supranational and remote impositions at the international level.

- Delivers Most-Favoured-Nation (MFN) treatment (i.e. that same rules applied to all included so no unfair advantage accrues);
- Investment and regulatory measures;
- Treatment of investors and of covered investments;
- Mediation;
- Proceedings under another international agreement;
- Ethics;
- Claims manifestly without legal merit;
- Committee on Services and Investment;
- Exclusion.

5.9 CROSS-BORDER TRADE IN SERVICES

Services is a major area for the development of transatlantic trade, particularly as it already dominates the GDP of both countries and with the key global roles London and New York play in financial services. Unlike the EU, the UK is actually a net importer of American services (bar insurance) and net exporter of goods to the US. The CBI found that in 2015 ‘American services exports to the UK rose to \$66.9 billion (from \$63.2 billion in 2014), whilst US imports of British services climbed to \$53 billion (rising from \$50 billion in 2014).’

In terms of context, total US Services exports were \$219 billion whilst imports were \$169 billion. This means that the U.S. services trade surplus with the EU was \$51 billion in 2014 so only partially offsetting the huge goods deficit³⁴. Currently, the UK has a small trading surplus with the US of only \$4.5 billion³⁵ which represents a tiny fraction of the total.

The opening up of State and federal government longer term to British service companies is a real and substantial prize, just as CETA opens up Canadian federal and provincial government services to bidding.

This clause would make it easier for UK individuals and companies to provide services to American customers, and vice versa for the US. It would start the process that may involve more in depth services cooperation in the longer term. It may cover:

- Services such as legal services, accountancy, transport & telecom services, supplied from the UK into the US, and vice versa;
- Services such as tourism, where an American consumer has to move physically from the United States to the UK to consume that service, and vice versa;
- The US and the UK committing to ensuring fair, equal access to each other’s services markets;
- Ensuring both Governments’ ability to regulate and supply services in the public interest;
- Delivering Most-Favoured-Nation (MFN) treatment
- Market access;
- Reservations.

³⁴ Source – Office of the United States Trade Representative - Executive Office of the President - <https://ustr.gov/countries-regions/europe-middle-east/europe/european-union>)

³⁵ (Source - <http://www.tradingeconomics.com/united-kingdom/balance-of-trade>)

5.10 TEMPORARY ENTRY AND STAY OF NATURAL PERSONS FOR BUSINESS PURPOSES ('MODE 4' UNDER WTO)

Both the US and the UK have a problem with unrestricted migration, which has driven the Brexit and the Presidential victory to a major extent. However, British investment supports some one million American jobs and American investment supports one million Britons so this clause is of mutual and equal benefit, and allows a proper system of controlled movement where there is a proven benefit and need.

Trade agreements under WTO guidance allow for special visas for temporary essential staff movements, such as to set up a new office or to train staff under 'Mode 4' arrangements. This is not Freedom of Movement. Mode 4 may be an area of controversy if the volume and use of these special entry requirements were to be misused or be overgenerous or unpoliced, but the principle is a sound one: of allowed temporary movement for specific, highly skilled purposes. This area may form a key area of a future UK immigration system having ended EU Freedom of Movement.

This WTO driven clause is intended to provide legal certainty for trained workers, who temporarily enter the UK or the United States to do business. It states in a transparent, predictable way:

- The types of professional covered, and the sectors in which they can operate
- The maximum length of their stay;
- That UK professionals will enjoy equal treatment in the US and vice versa;
- Key personnel;
- Contractual services suppliers and independent professionals;
- Short-term business visitors;
- Review of commitments.

5.11 MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

One of the most striking and important aspects of the CETA deal is the mutual recognition of professionals, which cover a wide range of professionals such as architects, midwives, dentists and doctors. This will be very important to a post Brexit Britain as it is already the case that many EU professionals may seek to leave the UK owing to uncertainty over future work visas - including a huge drop off in nurses and midwives from Europe³⁶. It would also address effective discrimination against US professionals wishing to work in the UK, and allow the UK to be more global and less regional in recruitment and outlook.

Whilst this benefit may arguably take longer than other clauses to enact, a system of mutual recognitions within different professions could be established quickly in a short term deal, even if the fruit of such labours took longer to deliver.

36 (Source: Sunday Express 19.2.2017)

This clause therefore creates a framework that would allow the UK to recognise professional qualifications earned in the US, and vice versa. It would mean professionals on both sides of the Atlantic could practise in each other's territory easily and without a range of offputting and unnecessary tests. The American and British Governments would leave it to the relevant authorities or professional bodies in both the US and the UK to negotiate a proposal on so-called mutual recognition that can then be integrated into the agreement over time. The clause would cover:

- Negotiation of an MRA (Mutual Recognition Agreement between relevant bodies)
- Recognition;
- Joint Committee on Mutual Recognition of Professional Qualifications (meeting regularly).

5.12 FINANCIAL SERVICES

Financial services are of huge economic importance to the UK, accounting for at least 12% UK GDP and with London being the largest financial centre in the world, with very strong bonds to New York and its financial services. Escaping the EU's often hostile regulatory regime towards the City of London should spare London the EU's substantial Financial Transactions Tax (FTT), allow a review of the damaging Alternate Investment Fund Managers (AIFM) Directive which hit many US hedge funds, and reduce interference in the selling of Euros for political reasons.

Whilst the UK has a more open financial services market than the rest of the EU, it is clear that EU regulations are having a negative effect on financial services. The AIFM Directive now regulates the practices of all EU-based Alternative Investment Fund Managers (rather than funds themselves). This law hurts the UK disproportionately as the UK is home to 23% of the EU's AIF Management Companies. It was forecast to cost the UK economy £5.3billion (according to Open Europe), and also 18,000 jobs.

Moreover, the impending Solvency II could cost the UK pensions industry some £400 billion pounds (or €498 billion) according to the then Pensions Minister, Steve Webb, when he referred to the matter in late 2012. It is therefore in the interests of both the US and the UK to use their combined 'Anglo' negotiating power to persuade the EU to tone back their financial services regulations. This is because both the UK and the US use their financial services surpluses with the EU to offset their gigantic trade in goods deficits.

Following Brexit, the UK would now be free to shape its own financial regulations to make them more suitable for the UK economy. Due to the similar world view and shared interests of the US and the UK, there are likely to be shared objectives between the two sides in the financial services sector and a mutual desire to retain and promote financial markets liberalisation across the world.

This clause would also enable financial institutions and investors in the UK and the US to benefit from fair, equal access to each other's markets. Certain conditions apply, and the provisions comply fully with the prudential and regulatory standards in place in the UK and the United States. In addition, financial services firms can only offer their services cross-border in a limited number of sectors, such as certain insurance and

banking services.

It should be clearly stated no aspect of this clause will be contrary to the principle of “prudential carve-out”. The WTO’s GATS (General Agreement on Trade in Services 1995) ‘confirms “notwithstanding any other provisions of the Agreement” that WTO Members are free to take prudential measures to protect investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system^{37.}’

This clause also creates a new Financial Services Committee to help both parties supervise and regulate the sector. The clause allows the US and the UK to protect the security and integrity of their respective financial systems. It also excludes areas such as pensions and social security. It may include:

- National treatment;
- Most-Favoured-Nation (MFN) treatment
- Recognition of prudential measures;
- Market access;
- Cross-border supply of financial services;
- Senior management and boards of directors;
- Performance requirements;
- Reservations and exceptions;
- Effective and transparent regulation;
- Self-regulatory organisations;
- New financial services;
- Transfer and processing of information;
- Specific exceptions;
- A Financial Services Committee;
- Consultations;
- Dispute settlement.
- Rules forbidding currency manipulation. It should be noted that China, Japan, Germany, Switzerland, Taiwan and South Korea are on the US Treasury Department’s Monitoring List as the Department believes that their foreign exchange policies require close monitoring^{38.}

5.13 ELECTRONIC COMMERCE (E-COMMERCE)

This is vital owing to the importance of E-Commerce to both economies and to the leading global position both have in this area, though the WTO needs to catch up on covering this.

This clause covers any business done electronically (e.g. online shopping). It includes rules that ensure that personal information on the internet is protected and that online services will not include customs duties. The UK and the US also promise to cooperate on issues related to E-commerce, for instance on combatting spam. It recommends customs duties on electronic deliveries; trust and confidence in electronic commerce. From this evidence, it is clear that the US and the UK are world leaders in E-commerce and with their open markets, and a deal on this topic could be signed quickly.

37 https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c2s1p1_e.htm - Annexe on Financial Services paragraph

38 http://usa.chinadaily.com.cn/business/2016-10/15/content_27072066.htm

Moreover, Fortune magazine reported in 2015 that E-commerce would be a huge boost to SMEs and not just multinationals. This is because trade ‘will be boosted by guaranteed freedom of cross-border data flows. These benefits wouldn’t be limited to multinational companies. For example, most of the sellers on eBay are in fact exporters—they sell to anyone, anywhere. SMEs will benefit from digital access to other markets, as well as access to more information on regulatory processes and customs procedures.’

Whilst subject to debate, it is suggested that this clause should also contain a provision for a Data Localization sub-clause. This is defined as the ‘the act of storing a user’s data within that user’s country of residence - as a prerequisite for conducting business³⁹.’ Opinion is divided on the merits, as opponents claim data localization means less free flows of data, greater cost (from more data centres being needed) and less security (as keeping data static impacts resiliency), but there is increasing public concern over lost and insecure data, with 26 million medical records used by GPs in the UK being found to be insecure recently, REF and with the rising menace of cyber crime and cyber security, privacy and preventing spam.

5.14 RULES OF ORIGIN

Rules of Origin essentially are the rules by which products can be assessed for customs and duty purposes as to what they can count as having been made in the UK or made in the USA, particularly where there is a complex inclusion of components from other non-US or non-UK countries - such as the myriad of globally-supplied parts in the manufacture of cars.

This would be a more detailed protocol attachment (CETA’s protocol is 229 pages), but the broad principles on what counts as made in the UK or made in the USA, what is ‘wholly obtained’ or meets a ‘sufficient production’ criteria, are as follows:

General requirements

1. For the purposes of this Agreement, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties, the product:

- (a) has been wholly obtained;
- (b) has been produced exclusively from originating materials; or
- (c) has undergone sufficient production.

Note: a normal working figure is 60%, but this is subject to agreement and discussion for such a trade deal, and might be amended over time. Post Brexit, there is a large and welcome move towards establishing more UK based suppliers - for example, the British Chambers of Commerce report shows that 13% of its member companies are looking to find new UK suppliers as a result of a lower pound and longer term UK production needs.

2. The conditions set out in this Protocol relating to the acquisition of originating status must be fulfilled without interruption in the territory of one or both of the Parties.

³⁹ <http://thediplomat.com/2015/11/the-data-is-in-the-details-cross-border-data-flows-and-the-trans-pacific-partnership/> - 23rd November 2015

5.15 STATE ENTERPRISES, MONOPOLIES, AND ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES

In this clause, which would require more definition, the US and the UK agree not to intervene in or potentially distort the level playing field for private companies. Both sides will ensure that state-owned enterprises, monopolies, and enterprises granted special rights will not discriminate against goods, services, or investments from the other party.

This ensures that competition between private and state-owned companies will not be negatively affected. The rules ensure that both parties have the full freedom of choice in the way they provide public services to their citizens. It would cover:

- State enterprises, monopolies and enterprises granted special rights or privileges;
- Non-discriminatory treatment;
- Commercial considerations.

5.16 A NEW US-UK AVIATION AGREEMENT TO REPLACE 'OPEN SKIES' US-EU AGREEMENT

Whilst requiring a separate free standing bilateral agreement, this clause is a reminder of the importance to enhancing trade links and to servicing US and UK markets post Brexit, of the retention of the benefits of the US-EU 'Open Skies' transport access agreement – which, though incomplete, allows US carriers the right to fly to any UK (EU and some non-EU) airport and UK (EU) carriers the right to fly to any US airport. The bilateral agreement might be better than Open Skies in allowing UK carriers the right to fly intra-US flights, which is denied to EU carriers, but this will have to be negotiated and such additional rights be delivered in the longer term.

5.17 RELEVANT COMMON TAX REFORM MEASURES

Without binding the hands of the President, Prime Minister, Congress or Westminster, this clause may refer to cooperation over where companies levy profits and where they sell products in order to address anomalies and to encourage the easier repatriation of profits to both jurisdictions or between the UK and US jurisdictions in relation to trade. The intention will be to facilitate more investment whilst also ensuring fair taxes are paid.

6. OTHER CLAUSES FOR A FUTURE LONGER AND DEEPER TRADE DEAL

These clauses might apply to a second US-UK trade deal that is deeper, wider and more ambitious and comprehensive than the initial fast track deal. They are present in CETA and might be incorporated into that later deal. The recommendation is that the momentum should be maintained after the initial deal and that negotiations, meetings and discussions continue on these areas without interruption. The longer term clauses cover areas such as:

6.1 SUBSIDIES

Free trade should also be fair trade without unfair or undue influence through visible or invisible subsidies.

This clause increases transparency around government subsidies to companies. The exact scope of such subsidies is likely to be heavily influenced by the nature of a final UK-EU trade deal. If a 'WTOPlus' deal (i.e. bigger and better than WTO Rules deal) is achieved such as CETA, the need for subsidies is much reduced. However, if the deal is like the existing WTO Rules deal the US has with the EU, the UK will have to compensate companies and producers - one quarter of sectors Business for Britain estimates (in its 'Change or Go' paper) using legal measures under WTO guidelines.

Whilst agriculture is allowed more direct and overt subsidies, manufacturing and other companies can only receive limited and indirect support through measures such as regional grants and Research & Development assistance. The US too would need to exhibit more transparency in and changed future subsidy support envisaged, such as to assist the repatriation of some manufacturing plants from China and Mexico say to run down areas or 'Rust Belt' States, or if Mexico were to be cut out of a renegotiated NAFTA, and suffers trade restrictions.

Under this clause both the US and the UK have to notify each other if they subsidise the production of goods. And they have to provide further information on any subsidies they give to companies providing services, if the other side asks for such information.

In addition, the clause sets up a mechanism to enable the US and the UK to consult each other on subsidies that may negatively affect trade between them, and to find solutions if a subsidy is found to do so. The US and the UK also agree not to subsidise exports of agricultural products to each other's markets. It includes: consultations on subsidies and government support; consultations on subsidies related to agriculture; agriculture export subsidies; exclusion of subsidies and government support; relationship with the WTO Agriculture Agreement, and dispute settlement.

The US is able now to act very swiftly to stop such unfair competition, including the introduction of 522% tariffs on Chinese steel after the US commerce department had found that the Guardian described it as 'being sold in the US below cost and with unfair subsidies'. The UK was hindered from saving the Port Talbot steelworks as any subsidy could have been ruled illegal under the EU 'State Aid' (anti-subsidy) rules.

There are other fields in which the UK and the US trade on equal terms such as services (IP and Financial Services) and certain goods which will be much more straightforward. For example, it was found that the US 'ran notable trade surpluses in financial services and intellectual property related services (\$9 billion and \$6 billion, respectively) and a \$3 billion trade deficit with United Kingdom in insurance services.

6.2 COMPETITION POLICY

This clause the US and the UK agree to prohibit and sanction practices which distort competition and trade (both sides will respect rules to ensure they act fairly and transparently when applying their competition laws and pursuing investigations into companies which might be breaking them). These include cartels; abusive behaviour by companies with a dominant market position; and anti-competitive mergers.

6.3 TELECOMMUNICATIONS

This clause the US and the UK commit to giving each other's businesses fair and equal access to public telecommunications networks and services. It includes rules to ensure competition in the telecommunications market. These include the confirmation of customers' right to keep their number when switching providers; the confirmation of a customers' right to receive telecommunications services in remote areas; competitive safeguards on major suppliers; and access to essential facilities and resolution of telecommunication disputes.

6.4 DOMESTIC REGULATIONS

This clause ensures that all regulations that the US and the UK issue are publicly available, easily understandable, and reasonable. In other cases they might impose qualification requirements. These include licensing and qualification requirements and procedures.

6.5 INTELLECTUAL PROPERTY (IP)

One of the major losses in EU-US TTIP negotiations was the striking down of the entire audiovisual clause owing to French protectionist concerns about its TV and film culture. This hit the UK and the US particularly hard as there is so much existing cooperation and production in fields such as film, music, TV, games, software and others. The UK in 2016, for example, saw £1.6 billion of film shoots and 200 films in total including massive Hollywood projects such as 'Star Wars: Episode VIII -The Last Jedi', 'The Mummy' and Stephen Spielberg's 'ReadyPlayer One'. £1.35 billion was spent by overseas production companies on 48 major films in the UK.

The wider clause builds on existing international intellectual property (IP) laws to develop regulations and standards that are consistent between the UK and the US. The clause also outlines procedures to protect against IP violations, and defines areas where both parties can cooperate further. It may include: public health concerns; disclosure of information; standards concerning Intellectual Property Rights; copyright and related rights; trademarks; designs; patents; data protection; plant varieties; enforcement of intellectual property rights; border measures; co-operation.

Whilst the Canadian deal CETA includes 'Geographical Indications' (GIs), which were accepted by Canada after initial opposition - this is not likely to be a feature of a US/UK trade deal. GIs are an EU scheme to protect special EU products or production zones such as the area of Champagne for wine or Cheddar for cheese, and a limited number - 73 regional and traditional British foods such as Cornish pasties, Welsh lamb, and Scottish wild salmon - are currently protected under EU law. But it is considered that the US would oppose such measures, and that the common legal traditions of trade mark, copyright and passing off protection should be sufficient for a US/UK deal in any case. But this can be subject to a longer term debate.

6.6 INTERNATIONAL MARITIME TRANSPORT SERVICES

This clause establishes the framework for regulating the maritime transport market between the US and the UK. It includes measures to ensure fair and equal access to ports and port services for commercial ships. It also provides definitions so that the commitments made are clear under Obligations and Reservations.

6.7 ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

This clause outlines how the US and the UK will manage and apply the US-UK deal. It explains how the US and the UK should organise the different committees that the agreement sets up, and the legal nature of their decisions. These include a possible US/UK Trade Deal Joint Committee; Specialised committees; Decision making; Information sharing and Meetings.

6.8 BILATERAL DIALOGUES AND COOPERATION

In this clause the US and the UK agree to work more closely with each other in areas such as science and forestry. There are already several agreements on dialogue and cooperation on trade and economic matters between the US and the UK. The clause incorporates these into US-UK trade deal so that all such activity has the same basis: Dialogue on Biotech Market Access Issues, Forest Products and Raw Materials; Enhanced cooperation on science, technology, research and innovation.

6.9 EXCEPTIONS

This clause gives the US and the UK the right to exclude certain areas, either from specific clauses of US-UK trade deal, or from the whole agreement. They can do so for a variety of reasons, such as to ensure public safety, prevent tax evasion, or to preserve and promote cultural identity. These include: Definitions; General exceptions; Temporary safeguard measures with regard to capital movements and payments; Restrictions in case of serious balance of payments and external financial difficulties; National security; Taxation; Disclosure of information; Exceptions applicable to culture and WTO waivers.

6.10 OTHER TECHNICAL AND STANDARD CLAUSES

The agreement may also contain the following sectors and Clauses which are generally standard for international agreements or whose content closely resembles or is linked to another clause. They include:

GENERAL DEFINITIONS AND INITIAL PROVISIONS - This clause explains the terms used in the agreement. This includes: Geographical scope of application; Establishment of a free trade area; Relation to the WTO Agreement and other agreements; Reference to other agreements and Reference to laws.

TRANSPARENCY - This clause makes sure the US and the UK publish the laws, regulations, procedures and administrative rulings on matters which US-UK covers, and make them available to those who are interested. It also ensures that both the US and the UK promptly share information and respond to questions on measures affecting the way they implement US-UK trade deal. The US and the UK also agree to co-operate in international bodies to promote transparency in international trade and investment. These include: Administrative proceedings; Review and appeal and Cooperation on promoting increased transparency.

FINAL PROVISIONS - This clause includes rules on: how the agreement can enter into force and how the agreement can be amended or ended in the future.

7. A POTENTIAL POLITICAL STRATEGIC PARTNERSHIP AGREEMENT (SPA)

This paper focuses primarily on a US-UK trade deal. But the EU-Canadian trade deal CETA is accompanied by a parallel but separate political agreement known as a 'Strategic Partnership' between Canada and the EU. This SPA could form the model for both a UK-EU Strategic Partnership and a US-UK Strategic Partnership, with the UK forming a Transatlantic bridge between the US and EU. The phrase 'Strategic Partnership' was prominent in Prime Minister May's key January 2017 Brexit speech.

If taken as a model, a Strategic Partnership Agreement could incorporate political cooperation in areas such as: democracy and human rights; defence and security, and countering terrorism; working together in international fora such as the UN, NATO, OECD and OSCE; cooperation over the economy, taxation and free trade; sustainable development; research and innovation, including space systems; culture and education; judicial and law enforcement cooperation e.g. fighting drugs, organised crime & cybercrime; migration, asylum and border management; and of personal data.

It might also include:

- a US-UK Joint Ministerial Committee - with the US President and Prime Minister generally taking the lead, or the Vice-President and others, and the UK Foreign Secretary or Chancellor, meeting perhaps bi-annually or even quarterly, and meeting alternately between the UK and Washington DC. This can be a key part of maintaining friendly cooperation on trade and security.
- a US-UK Joint Cooperation Committee - which like Canada will recommend priorities between the parties, monitors developments in the strategic relationship, exchanges views, ensures the Agreement works properly and efficiently, produces an annual report on the state of the relationship and makes recommendations on future cooperation. This may in turn establish sub-committees as required.

The main advantage of such bodies is to provide regular, organised and committed time slots for political interaction and discussion, which essentially encapsulate the Special Relationship and institutionalises it, but the reality is that there is already a well developed and well used network that may be more private.

But the necessity for such a specific agreement on top of existing well developed diplomatic and political relations would be open to further discussion and debate.

8. BIOGRAPHIES

DAVID CAMPBELL BANNERMAN MEP

David Campbell Bannerman is a Conservative Member of the European Parliament (MEP) for the East of England, based out of Cambridge. He was elected as an MEP in June 2009 and re-elected in May 2014.

Known as a prominent Leave campaigner during the Brexit Referendum, Mr Campbell Bannerman served in Government 1996-97 as Special Adviser to the Secretary of State for Northern Ireland on the Peace Process, and later devised a successful method of decommissioning terrorist weapons. He was in UKIP 2004-2011, and was Deputy Leader to Nigel Farage MEP and Party Chairman. He returned to the Conservative Party in 2011 to argue strongly for a referendum to leave the European Union (EU), and wrote a book 'Time To Jump' in December 2013 with Lord Lamont of Lerwick writing the Foreword.

Campbell Bannerman is a trade expert. He has been working on trade deals on the European Parliament's Trade Committee for 7 1/2 years and recently was Shadow Reporter on the successful Canada-EU Comprehensive Economic & Trade Agreement (CETA), meeting Premier Trudeau after its approval.

David has written numerous pieces arguing for a 'WTOPlus' deal with the European Union, what he calls a 'Super Canada' deal based on direct experience of CETA. He is also (Standing) Reporter for the proposed India-EU Free Trade Agreement, meeting Prime Minister Modi in this regard. David was born in Mumbai (Bombay) India.

Other trade deals he was involved with include EU-New Zealand, South Korea and Colombia/Peru, including visiting President Santos in Bogota and as a member of the EEA Joint Parliamentary Committee. He also serves as Chairman of the Iraq Delegation of the European Parliament and has visited Peshmerga forces on the front line near Mosul and hosted victims of ISIS.

David received an M.A.(Hons) from Edinburgh University in Politics & Economics, including an Exchange Scholarship to Wharton/University of Pennsylvania in the USA, where he also obtained a U.S. Private Pilot Licence.

David is distantly related to the UK Liberal Prime Minister Sir Henry Campbell-Bannerman and also to Canadian Premier Diefenbaker, and has family in the USA. His hobbies include screenplay writing and he has pitched scripts in Hollywood.

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