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A US-UK Trade & Economic Council

A New Structure for US-UK Trade Cooperation

Emanuel Adam, Chief Trade and Policy Officer, BritishAmerican Business
Andrei Cazacu, Senior Policy Manager, BritishAmerican Business
Dagny Ahrend, Policy Associate, BritishAmerican Business
Duncan Edwards, Chief Executive Officer, BritishAmerican Business

Introduction

Free Trade Agreements (FTAs) can play a key role in enhancing trade and investment, in setting a level playing field for the exchange of goods and services, and in reducing barriers to trade. At the same time, an FTA can also be a powerful signal that reinforces the strong political, economic, and cultural ties between countries.

It is therefore no surprise that in 2020 the US and the UK officially started negotiations for a comprehensive FTA. The two countries enjoy a longstanding economic and political relationship and a shared commitment to a liberal free trade agenda, all based on robust bilateral trade in goods and services: the UK is the US' seventh-largest trading partner and the fifth most important destination for US exports, while the US is the UK's largest trading partner.¹ In 2020, the UK exported £120 billion in goods and services to the US (20.8% of the UK's total exports) and imported over £76 billion.² When it comes to investment, the two countries are even further integrated. In 2019, the outward stock of foreign direct investment (FDI) from the UK in the US was £379.7 billion, and the inward stock of FDI in the UK from the US was £381.6 billion.³

While the flow of trade and investment between the US and the UK decreased slightly during the pandemic, mirroring a global trend, the significance of the US-UK economic relationship did not change, with the latest figures signalling a path of recovery toward pre-pandemic figures.⁴

BritishAmerican Business (BAB) has long called for a comprehensive US-UK FTA to build on what is already a great economic relationship. Our community was pleased when talks began in 2020, and equally disappointed when they came to a halt later that year. We understand that the world is in a different place today compared to early 2020 and recognize that both the UK and the US have since adapted their priorities, reflecting new domestic ambitions and external factors.

Most notably, the White House has indicated that negotiating trade deals with other partners, including the UK, is not a priority at this time. Instead, the Biden administration is in the process of re-evaluating the negotiation objectives it inherited, while prioritising domestic issues, pandemic recovery, and its relationship with China over the negotiation of bilateral trade agreements.⁵ In a recent trip to the US, Prime Minister Boris Johnson similarly tempered expectations for an FTA in the near future.⁶

Despite the current political climate, which reflects a natural change of priorities, the interest and support from the private sector in advancing the transatlantic economic agenda have not diminished. As BAB's recent Transatlantic Confidence Index survey, released in July 2021, indicates, optimising and improving US-UK trade and investment through an FTA continues to be a top priority for US companies.⁷

Additionally, both the US and UK governments have already made great strides towards removing existing barriers to trade and investment since the halt of formal negotiations, such as suspending tariff disputes or reopening the transatlantic corridor for travel, while also enhancing cooperation in areas such as climate, security, technology, energy, and support for smaller businesses.⁸

The ongoing importance of transatlantic cooperation and the progress the UK and US have made outside of the FTA discussion are an encouragement to continue expanding on the substantial work that has been done by the UK and the US over the past three years.

Building on and reflecting BAB's latest Policy Agenda released in October 2021, this BAB Briefing Paper calls for both governments to formalise a trade cooperation framework under a new US-UK Trade and Economic Council to resolve remaining trade disputes, pursue issue-specific agreements, and advance joint US and UK interests. Within this framework, we propose a set of relevant workstreams each linked to specific challenges that can be addressed on a bilateral basis outside formal FTA negotiations, and inform future formal FTA negotiations.



The State of Play

In July 2017, following the UK's decision to leave the European Union (EU), the US and UK launched a Trade and Investment Working Group to explore ways to strengthen the transatlantic trade and investment relationship.⁹ The primary goal of this working group was to lay the groundwork for future FTA negotiations, to be conducted as soon as it was formally possible in the context of the UK's departure from the EU.

Six meetings were held between 2017 and 2019 to discuss the continuity of US-UK trade post-Brexit, the potential for a future free trade agreement, and other ways in which to enhance existing transatlantic trade and investment ties. In 2018, the Trump administration notified Congress, under the Trade Promotion Authority (TPA), of its intent to formally open FTA negotiations with the UK. Five rounds of virtual negotiations were conducted throughout 2020. Following the fifth round of talks in October 2020, negotiators gave a positive assessment of the progress made towards an FTA and indicated that most aspects of the agreement were 'in the advanced stages of talks.'¹⁰

Since the start of the negotiations, it was clear that the US presidential elections would be an important marker in the success of the talks. In a White Paper published in October 2020, BAB proposed a roadmap that took into consideration the elections, as well as other key events and issues that, in our view, defined whether the FTA talks could be successfully concluded.¹¹

Key elements of the roadmap included agreeing on a schedule for how and when the negotiations would resume after the election, no matter the election outcome; reaching a negotiation status that would make the conclusion of the FTA appealing and straightforward to a new Administration; and continuing efforts to remove other trade barriers affecting the transatlantic corridor, such as the WTO Large Civil Aircraft subsidy dispute or the Digital Service Tax dispute, as well as the prolonged closure of the transatlantic air travel corridor.

While there was a notable attempt and opportunity to bring talks to a successful conclusion in early 2021, the talks soon became the victim of changing political priorities. In fact, the US administration's 2021 trade priorities made it clear that the US would look at trade differently going forward, focusing primarily on climate objectives, pandemic recovery, solving trade disputes, and supporting domestic workers and

manufacturers.¹² Notably absent from these priorities is the ambition to pursue new comprehensive free trade agreements with partners such as the UK. The Biden administration has also offered little indication that it plans to pursue a renewal of the TPA.

Moreover, despite the reported advanced stage of the talks, outstanding issues such as trade in agricultural goods, pharmaceuticals, and the UK's digital services tax (an issue since resolved through the OECD process), were already an indication that concluding the FTA would take time.¹³ Despite a last attempt to bring talks to a conclusion in early 2021, negotiations have now been on hold since the last round of official talks in October 2020.

Toward a US-UK Trade & Economic Council

The world of transatlantic policymaking, however, has not stood still. The establishment of relevant US-EU platforms such as the US-EU Trade and Technology Council (TTC), the lack of certainty around transatlantic data transfers, the continuing challenge posed by non-market economies, as well as the increasing role of transatlantic trade and investment for COVID-19 recovery efforts, confirm the need to continue talks to strengthen the transatlantic corridor.

Recent successes, such as the UK-US Science and Technology Partnership Agreement, the US-UK Strategic Energy Dialogue, or the removal of punitive tariffs suggest that considerable progress towards removing barriers to trade and strengthening economic cooperation can be made outside the framework of a comprehensive FTA. This progress is also complemented by ongoing regulatory dialogue between the US and UK on various issues. For example, the UK-US Financial Regulatory Working Group has met multiple times between 2018 and 2021 to deepen bilateral regulatory cooperation and identify areas of mutual interest.¹⁴ Regulator-to-regulator dialogue has provided a feasible way to continue strengthening trade and investment and identify areas of equivalence and compatibility.

We propose that the US and UK continue to build on these existing forms of cooperation, as well as the work done as part of the US-UK Trade and Investment Working Group, and formalise trade cooperation in a new US-UK Trade & Economic Council. Councils and working groups which promote cooperation and advance regulatory dialogue, are not new in a trade policy context, yet they represent a helpful mechanism to streamline and structure policy discussions.

The US-UK Trade & Economic Council should therefore serve as a framework for several relevant workstreams where progress can continue to be made while formal FTA discussions are on hold. The goal of this forum should be to continue building momentum towards a full, comprehensive FTA, while also making tangible progress on pressing issues affecting transatlantic trade and investment.

As a start, we propose that six workstreams be established. Each of these topics reflects the priorities of the BAB community, as well as the areas of existing UK and US policy activities and ambitions.

The six workstreams include:

- 1. Technology and digital trade**
- 2. Business mobility**
- 3. Climate and sustainability**
- 4. SMEs**
- 5. Financial Services**
- 6. Multilateral cooperation**

1. Technology and Digital Trade

The increasing digitalisation of the global economy has made technology, digital trade, and data a prominent focus of both the US and UK's trade policy agendas. There has been substantial progress from the UK government to define its digital trade objectives and to secure a global network of digital trade agreements as part of its broader international trade programme. For example, the new UK-Japan free trade agreement includes expansive provisions governing digital trade. In the US, trade agreements such as the USMCA also reflect the growing importance of digitally enabled goods and services, while negotiations with the EU under the EU-US Trade and Technology Council suggest these will continue to be important issues in the transatlantic relationship.

The US and UK should pursue bilateral discussions and establish shared principles to guide the regulation of transatlantic data flows, digital trade, and technology. These discussions should focus on key issues such as technology standards, securing semiconductor supply chains, data governance, and green technology, ultimately building on and feeding into current global policy discussions.

Cross-border data flows represent a particularly important issue which underpins digital trade. In 2019, the US and UK ranked second and third respectively among countries with the most cross-border data. Both countries are also major hubs for international trade underpinned by data flows.¹⁵ Global data flows now contribute more to global growth than the global trade of goods, and these technologies offer a host of benefits to transatlantic companies.

With negotiations to construct a new data adequacy agreement between the EU and US ongoing, the UK announced in August 2021 that it would prioritise reaching a data adequacy agreement with the US.¹⁶ BAB welcomes this progress and strongly supports efforts to establish a new data transfer agreement between the US and UK. Establishing a new bilateral agreement regarding transatlantic data flows is an opportunity to reduce regulatory complexity and offer legal certainty for businesses, while also maintaining high data protection and privacy standards.

The US and UK should continue a dialogue under the formalised setting of the US-UK Trade & Economic Council to ensure the free flow of data and adequately balance a high standard of privacy with opportunities for transatlantic companies to grow and innovate.

In a recently published BAB Briefing Paper 'Data Flows That Work For Transatlantic Business', our group made several recommendations that should guide US-UK discussions on data flows.¹⁷ First, negotiations for a new data transfer mechanism should provide formal opportunities for business to engage and offer input. Secondly, any agreement should provide legal clarity and avoid increasing the regulatory burdens placed on business. Finally, these discussions should inform several initiatives at multilateral levels that aim to establish principles for trusted government access to data, create global data governance standards to reduce market fragmentation and minimize barriers to data transfers.

Beyond data, the US and UK should work to develop **global technology standards** and **strengthen collaborative research and development** efforts. The announcement this summer of a new US-UK Science and Technology Partnership is an encouraging step towards further transatlantic cooperation in this area.¹⁸ A formalised technology and digital trade dialogue between the US and UK should seek to build on these existing commitments to strengthen cooperation in areas such as **Artificial Intelligence, 5G, and supply chain resilience**.¹⁹ Cooperation in these areas has the potential to both influence other ongoing bilateral discussions, such as with the EU-US, as well as global efforts to develop standards for emerging technologies and digital trade.

As part of this partnership, the US and the UK should pursue regulatory cooperation on emerging technologies to ensure coherence between regulatory regimes and identify best practices. In effect, these measures could decrease regulatory complexity and expand access for transatlantic businesses.



The US and UK should also pursue multilateral cooperation on issues relating to digital trade and technology, particularly in WTO e-commerce negotiations under the Joint Statement Initiative (JSI). The G7 Trade Ministers' Joint Communique issued this October provides encouraging support for this objective and outlines a commitment to modernising global trade rules to apply to digital trade and markets.²⁰ The US and UK should build on this momentum and set the tone for global negotiations by pursuing regulatory talks under a digital trade and technology workstream.

2. Business Mobility

The COVID-19 pandemic has shown, once again, how important it is for people to move alongside their business activities. The US and UK trade and investment relationship benefits enormously from the transatlantic flow of workers. On average, over 25,000 US citizens enter the UK for work annually, and over 179,000 British citizens entered the US as temporary workers in 2019.²¹

As business mobility and immigration do not typically fall within the scope of an FTA, establishing this as a workstream outside the framework of formal FTA negotiations presents a unique opportunity to advance the conversation and work towards **shared principles for US-UK business mobility**. The conversation would build on promising steps taken by both the US State Department and its UK counterparts in July 2020 in exploring the establishment of a Joint Working Group/ Task Force.

As part of the discussions, both governments should look at how to ensure the transatlantic travel corridor remains safe and open in the coming months, embracing the growing need for booster vaccinations (and therefore proof of it), while also engaging in discussions to further simplify and facilitate transatlantic business travel.

Policies aimed at facilitating and simplifying this exchange can have an immediate, positive impact on transatlantic travel and mobility. For example, the Global Entry mechanism for travel to the US and the Registered Traveller membership in the UK have successfully expedited the processing of transatlantic arrivals.

The US and UK should look to build on these successes under a labour mobility workstream. Discussions between the two governments should focus on simplifying and facilitating business travel, establishing specific processing times for visas, and creating industry-specific programs to address immediate labour needs.

As part of this dialogue, both governments should also consider existing templates and best practices from past agreements. For example, current programs such as the E-3 visa system available for Australian citizens traveling to the US or the USMCA TN visa for non-immigrant professionals could be used as a template for a future US-UK labour mobility model.

3. Climate and Sustainability

Sustainability is a clear priority for both the US and UK governments. Our community noted with interest the statement made by US Trade Representative Katherine Tai linking trade to sustainability, as well as the UK Government's commitment to 'green trade'.²² Free trade can indeed support both countries' environmental objectives by reducing the costs of green technologies, increasing their global availability, and incentivizing more efficient production.²³ The US and UK should therefore use the opportunity of the US-UK Trade & Economic Council to lead on the discussion around using trade to achieve sustainability goals, an initiative that should also be included as part of future FTA discussions.

A sustainability workstream provides the opportunity to address potential barriers and set the groundwork for future environmental provisions in an FTA. Disagreements over the definition and scope of environmental goods and services could be a stumbling block. The US and UK should therefore engage in **regulatory dialogue around sustainability issues**, ranging from trade to green procurement to sustainable finance, and develop shared definitions of environmental goods and services.

Increasing regulatory and definitional clarity is particularly important for trade in **environmental services**, which are often harder to define and face higher trade barriers. Traditionally, environmental services have been defined under several narrow categories such as water treatment or the reduction of certain industrial emissions. However, a broader range of services, including engineering, architecture, construction, finance, or consulting services, are increasingly linked to the provision of environmental goods. For example, trade in financial services can drive developments in sustainable finance. Barriers to trade in these sectors, then, can have a substantial effect on the trade and availability of environmental goods and services.

The US and UK should therefore pursue environmental services discussions, supported by stakeholder input, to create shared standards for environmental services regulations and provide clarity for environmental service providers. The two governments should look to previous examples of transatlantic regulatory cooperation, such as the US-UK Financial Regulatory Working Group, as a template for organising and conducting regulator-to-regulator dialogue.

In addition, the US and UK should also work to lower barriers to **trade in environmental goods**. Broadly defined, environmental goods can be understood as those which directly address environmental issues, such as water treatment systems, or as 'greener' substitutes for other products, such as electric cars or wind turbines. The market for these goods and services has continued to expand in the transatlantic corridor. For example, the US is the largest export market for UK environmental goods and services. In an FTA discussion, tangible and immediate benefits could be achieved from eliminating existing tariffs on these products, such as the UK's 10% tariff on electric or hybrid-electric passenger vehicles or 14% tariff on bicycles.²⁶

Outside of reducing barriers to trade in environmental goods and services, the UK and US could consider **green procurement guidelines** and the ways in which they can be used to support US-UK trade. These discussions can set the groundwork for a sustainable procurement chapter in a future US-UK FTA, while

also identifying best practices and shared approaches to delivering on environmental objectives through government procurement.²⁷

Finally, the UK and the US should explore the drafting of a US-UK sustainability agenda, outlining key principles for how both countries want to lead the discussion globally in the coming years.

4. SMEs

Small and Medium-Sized Enterprises (SMEs) are the largest beneficiaries of a future US-UK FTA. They are also among the biggest proponents of FTA talks between the US and UK.²⁸ For tens of thousands of these businesses, transatlantic trade offers an important way to grow and expand into new markets, particularly in light of the UK's departure from the EU and ongoing efforts to recover from the COVID-19 pandemic. It is therefore important that the US and UK governments commit to a dedicated SME workstream to reduce barriers to trade and investment and increase practical support for expanding businesses.

Future discussions should build on the substantial progress that has already been made by both governments to put SMEs at the heart of the transatlantic trade agenda. Both the US and UK governments have prioritised SMEs in their respective FTA negotiating objectives and emphasised the need for a dedicated SME chapter in a future free trade agreement. The US and UK have also held dedicated **SME Dialogues** to hear from SMEs on the specific opportunities and challenges of bilateral trade and identify areas for increased government support.²⁹

BAB played a key role in facilitating the previous US-UK SME Dialogues and would support efforts to resume SME-specific talks in a similar format in 2022. Future talks should focus on simplifying the existing US-UK customs and tariff regime and increasing the practical support and resources available to SMEs.

Currently, the complexities of the current **customs and trade facilitation** process place a disproportionate burden on smaller businesses and limit their ability to engage in transatlantic trade or e-commerce. The US and UK should cooperate to simplify this process, address inefficiencies, and modernise current customs



provisions to support expanding businesses on both sides of the Atlantic.

As outlined in BAB's 2021/22 Policy Agenda,³⁰ practical measures could also include updating the current 'Doing Business in the UK and the US – Resources for Small Business' booklet to reflect new initiatives, resources, and contacts in both countries, as well as the creation of further **guides on practical matters like e-commerce and customs, intellectual property, regulation, or taxation.**

For SMEs, who often lack the expertise or resources that larger companies have at their disposal, the costs and administrative burden of transatlantic trade could be greatly reduced by first resolving these existing barriers outside the framework of a comprehensive FTA. The US-UK Trade & Economic Council provides an opportunity to discuss the resumption of SME dialogues, as well as to discuss the scope and opportunity for a bilateral agreement on SMEs that addresses existing challenges. Any future FTA should build on this by including both a dedicated SME and a Customs and Trade Facilitation chapter.

5. Financial Services

Given the importance of financial services to both the US and UK economies, and relative similarities in their respective regulatory approaches, the two countries should continue to enhance their cooperation in this sector.

Previous transatlantic discussions on financial services can serve as a basis for such cooperation. HM Treasury and the US Treasury Department announced the formation of the US-UK Financial Regulatory Working Group (FRWG) in April 2018 in order to advance stability and reduce uncertainty in light of the UK's departure from the EU. The FRWG's activity has continued beyond the formal departure, as the benefits of structured and periodic regulatory dialogue became apparent. In response to the FRWG, UK and US business representation organisations formed the British American Finance Alliance (BAFA) to actively contribute specific industry input to these regulatory discussions.³¹ BAFA members have welcomed engagement with HM Treasury and the US Treasury throughout the FRWG's activity.

In short, the FRWG has been one of the key success stories of US-UK regulatory dialogue and cooperation, and it should continue its work in its current structure. While mindful of not duplicating work or creating unnecessary new structures, we recommend finding ways for the TEC to be informed by the good practices set in the FRWG. This successful model of industry engagement in regulatory dialogues can and should serve as a template for other areas as well.

The US-UK Trade & Economic Council presents an opportunity to reinforce the work of the FRWG and to provide **long-term support for regulatory cooperation**, supported by industry engagement and input, with the ultimate goals of reducing divergence and market fragmentation. By pursuing these objectives outside the more rigid framework of an FTA, both governments have the flexibility to cooperate and adapt regulatory guidelines in response to quickly evolving technologies and services.

While this format can and should be applied to other areas such as technology or sustainability regulation, the priorities for financial services should include addressing current issues related to market conduct, investor protections, market integrity, cyber security, and FinTech. These discussions should seek to reduce market fragmentation by addressing current and substantial differences between financial regulatory frameworks in the UK and US.³²

6. Multilateralism

The US and UK should work closely to identify common interests in each of the previous issue-specific

workstreams, but also dedicate specific consideration to how to advance these objectives globally. Recent developments such as the OECD agreement on a global corporate tax demonstrate that substantial progress can be made at a multilateral level. The US and UK should draw the right lessons from these developments and prioritise a multilateral issues workstream to advance global agendas and **set global standards** that enhance trade and investment.

There is considerable overlap between the priorities for US-UK cooperation and the priorities set by the international community. Digital trade, technology, sustainability, or financial services are just some of the key topics of debate on global trade and investment. As the previous sections outlined, these ongoing initiatives such as the **WTO e-commerce negotiations** or the **WTO Work Programme on Sustainable Procurement**, also present an opportunity for strengthened transatlantic cooperation and leadership.

First, both countries should use negotiations for a new US-UK data transfer mechanism (see 'Technology and Digital Trade' section) as an opportunity to inform multilateral efforts to improve global data transfer standards. This is particularly important considering recent multilateral initiatives such as the OECD's work on trusted government access to personal data.³³ Although the momentum behind these discussions has lessened, the US and UK have an opportunity to use the formalised setting of a US-UK Trade Council to develop new, innovative standards to inform global data governance.

A multilateral agenda is also relevant in discussions around sustainability. As the recent COP26 summit demonstrates, governments are increasingly turning to multilateral action as a way to deliver on sustainability goals. Disagreements over the definition and scope of environmental goods and services could be a potential stumbling block, both in multilateral forums and in the lead-up to a future US-UK free trade agreement. This has previously been the case at the WTO level, where disagreement over how to define environmental goods and services stalled negotiations on an Environmental Goods Agreement in 2014.³⁴ The US and UK should therefore use the platform of a US-UK Trade & Economic Council to develop shared definitions of environmental goods and services that can inform multilateral discussions, such as the WTO Structured Discussions on Trade and Environmental Sustainability (TESSD) and set the groundwork for environmental provisions in a future US-UK FTA.

The two countries should also pursue sustainable procurement at the multilateral level. Now as parties to the WTO Agreement on Government Procurement, both countries advance negotiations in the Work Programme on Sustainable Procurement.³⁵ While progress on the work programme has stalled, the US and UK should use the US-UK Trade & Economic Council to set out a common approach to the negotiations and identify key areas in which progress can be made.

Conclusion

In policymaking, it is important to balance ambitions with reality. BAB has always been ambitious when advocating for US-UK FTA discussions. At the same time, we recognize that domestic political priorities and global pressures will shape and constrain what can be accomplished and when. Our proposal for a US-UK Trade & Economic Council strikes a similar balance, embracing the ambition for a future comprehensive US-UK FTA while adapting objectives for future transatlantic economic cooperation to fit the current political environment.

As this paper demonstrates, there is a wide range of ongoing discussions outside of formal FTA discussions that can lead to tangible outcomes for both governments and for businesses. These discussions should be continued and expanded under the framework of the US-UK Trade & Economic Council. Reaching a data transfer agreement between the US and the UK, reinforcing the importance of the US-UK Financial Regulatory Working Group, reviving the US-UK SME Dialogue, facilitating transatlantic business mobility, or creating a US-UK sustainability agenda would deliver tangible results, keep the momentum in the US-UK economic discussion high, and lay a new foundation for future FTA negotiations.

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³⁴ **Riddell, G. & Lowe, S.**, Towards a Comprehensive UK Green Trade Strategy, <https://blogs.sussex.ac.uk/uktpo/publications/towards-a-comprehensive-uk-green-trade-strategy/>

³⁵ **WTO**, Agreement on Government Procurement, https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm



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