A trade deal between the United Kingdom and United States: be careful what you wish for

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The UK has something to celebrate, at least if one believes the tabloid headlines. It seems that it has moved from the back to the front of the queue to agree a trade deal with the United States.

On the surface, a trade deal would be a good idea. The UK must now prepare to negotiate such deals with many countries, to replace those from which it will be excluded when it leaves the European Union (EU).⁽¹⁾ Failure to agree them risks defaulting to World Trade Organisation regulations, which would be severely damaging. Tariffs would make many British goods more expensive and it may be impossible to trade some of the services that are now a major source of the United Kingdom's foreign earnings. More important are non-tariff barriers, such regulations and standards that allow the European single market to work, even if often mocked by Eurosceptics. Worst of all are quotas, which limit the amount of goods that overseas markets will import. Although, in theory, the UK is entitled to a share of the EU's quotas for international trade, in practice, negotiating this is fiendishly difficult. A recent worked example using something as seemingly simple as lamb and mutton quotas showed that this could take years to resolve, ⁽²⁾ confirming that confident assurances about Brexit do not survive contact with reality. It is easy to see how the British government might be attracted by any offer of a swift and simple trade deal with the United States.

There are, however, problems. President Trump has made it clear that his actions will be based on one principle, America First. US businesses are also well-placed to push for a deal that promotes American interests, supported by a trade committee system with 700 representatives spanning 28 industries,⁽³⁾ while the UK struggles to recruit any negotiators. Given that the UK has a large surplus in goods and services with the USA, totalling £36.4 billion in 2014, ⁽³⁾ it seems very unlikely that Donald Trump would agree any deal that benefitted the UK even further. Instead, he would concentrate on areas where the USA had something to sell. Two such areas stand out.

The first is health care. American health corporations face an uncertain future domestically if, as President Trump promises, the Affordable Care Act is repealed. Beyond the human tragedies, as millions of Americans, and especially those with pre-existing conditions, lose health coverage,⁽⁴⁾ the insurance companies and provider chains could face a substantial fall in income.⁽⁵⁾ They can be expected to look abroad, making the United Kingdom, with a struggling National Health Service (NHS), a tempting target. The Prime Minister has not excluded the possibility of opening the NHS even further to them.⁽⁶⁾ Should this happen, British healthcare may fall victim to the same fate as the US system.

The second is food and beverages. American food and beverage companies are extremely competitive thanks to generous agricultural subsidies, economies of scale, and heavy marketing. This has enabled them to increase worldwide sales of their products, especially unhealthy, calorie-dense

processed foods, and sugar-sweetened beverages.(7) A US trade deal is very likely to expand their reach in Britain, with more unhealthy food and beverages lining the aisles of British supermarkets. The lobbying power of the food industry has also enabled it to employ many hazardous practices that are banned in Europe, such as feeding cattle with growth hormones, food irradiation, and washing chicken meat in chlorine. Any attempt by the UK to prohibit products treated in these ways would inevitably be seen as a non-tariff barrier, to be eliminated before any deal was acceptable to the USA.

Signing a trade deal is, however, only the start of a long-term relationship. And as with all relationships, disputes arise. Such disputes often seek to overturn measures that protect health and the environment, racking up enormous litigation bills in the process. The fear of such litigation can discourage governments from introducing new measures to protect health. (8) The USA has regularly initiated disputes with her trade partners, particularly against Canada under the North America Free Trade Agreement (NAFTA), a 1994 deal that is a likely blueprint for a US-UK agreement. Assuring a fair and transparent dispute resolution system that protects health is therefore critical for any US-UK deal.

Trade disputes can be resolved in one of two ways. The first is in a court, with evidence presented in public, offering an opportunity for third parties, such as environmental groups, to join the action. This is what happens in the European Union, with cases decided by the European Court of Justice which has consistently emphasised health. The alternative, the norm in international trade deals, is a private tribunal with no obligations in relation to health.(9) In the negotiations on the Transatlantic Trade and Investment Partnership (TTIP), the USA sought a tribunal system while the European Union, reflecting concerns in the health community,(10) demanded a court system. As Mrs May has rejected the idea of giving power to foreign judges it seems inevitable that she would agree with the American position.

Ironically, some people supported Brexit because of concerns about the impact of TTIP. It now seems likely that their votes will lead to something very much worse, with profound consequences for the health of the British people.

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