



A new transatlantic gold standard?

A series of fireside chats on the future of US/UK trade in financial services post Brexit

17 February 2021 - The department for International Trade and the Department for Business, Energy and Industrial strategy

The fifth and final session of our series of webinars welcomed the Department for International Trade and the Department for Business, Energy and Industrial Strategy (“**BEIS**”) which have been representing the UK at the US/UK trade negotiation. The discussion covered the following **key issues**:

- progress of UK trade negotiations
- future of EU and UK relationship in the financial services sector
- financial services in future trade negotiations
- reasons for a Free Trade Agreement (“**FTA**”) with the US
- progress of the US/UK trade negotiation
- the new US Administration and its likely impact on US/UK negotiations
- features of the US/UK FTA discussion
- financial services legal cooperation between the US and the UK
- possibility of the UK diverging from EU regulatory framework
- potential challenges to achieving an FTA
- role and importance of the British American Finance Alliance (“**BAFA**”)

Progress of UK trade negotiations

For the first time in 50 years, the UK is able to conduct independent trade policies and to sign its own trade agreements. The UK has struck very good, if not better, deals with its trading partners since the UK’s exit from the EU, which is a remarkable achievement.

The UK’s negotiations with Australia and New Zealand are making promising progress to the transpacific partnerships with agreement in sight. The UK also signed the UK-Japan Comprehensive Economic Partnership Agreement (“**CEPA**”) in October 2020. CEPA is an “enhanced continuity” agreement which is based on the existing EU-Japan agreement, with certain enhanced and bespoke features such as financial services, digital and data. CEPA was achieved in a short space of time, and the enhancement of topics is a catalyst for these topics to be part of any future FTAs.

It is the UK’s ambition to put itself at the centre of the network of global FTAs, and it intends to do so to further improve the UK’s position as a world-leading investment hub. The aim of this is not only to encourage trade in goods and services, but also to establish a programme of bilateral co-operations which can stimulate investments in the UK.

Future of EU and UK relationship in the financial services sector

The financial services sector underpins the UK economy and makes significant contributions to the UK's tax revenue. Although Brexit has resulted in the erosion of some financial services activities in the UK, and European regulators have been actively encouraging Euro-trade, no single European city has rivalled London's status as a global financial centre.

Financial services provided by the UK benefit not only UK companies, and there are strong pressures on European companies to access the London financial markets and to access UK financial services. There are good reasons for UK-EU cooperation and a lot of potential for UK-EU negotiation in the financial services space. It will be a mutual loss if no equivalence is reached.

Trade negotiations are nuanced, and the UK and EU should set up a framework which will enable regulators to develop financial services regulations and for further negotiations to happen. The benefit and strength of the financial services sector is that it is more flexible than other industries; financial services firms have adapted well to changes in regulation, taxation and business models.

Financial services in future trade negotiations

Trade negotiations are highly political. The commitments signed by the UK and Switzerland in June 2020 for the a deal on financial services were driven by mutual self-interest, with nearly half of all Swiss financial services imports coming from the UK, and the UK being one of the main destinations for Swiss direct financial investment. A comprehensive mutual agreement will be beneficial for both jurisdictions as it will reduce the cost of trade barriers both ways. Going forward, the UK will continue to seek agreements of this kind.

Reasons for an FTA with the US

The US is the largest single trading partner of the UK, and equally, the UK is a prize for the US as it is potentially the largest economy with which the US will have signed a bilateral trade agreement. There are many issues which the two countries have mutual interests in such as digital trade, protection of intellectual property and the acceleration of low carbon economies.

Further, it is estimated that over 60% of Americans think that an FTA between the US and the UK will strengthen the US' local leadership. There is therefore strong US incentive to achieve an FTA with the UK.

Progress of the US/UK trade negotiation

The negotiation process took off after the referendum in 2016. Between 2017 to 2019, the UK-US Trade and Investment Working Group ("TIWG") laid out policy ground work, explored negotiations and formed personal relationships with the US negotiating counterparts.

The UK also conducted a public consultation which helped the Department for International Trade shape its negotiation objectives. In March 2020 and before the launch of the negotiation, a **consultation outcome** which includes an extensive economic impact assessment was published.

In the rounds of US/UK negotiations, each round took the discussion a step further, from the establishment of the TIWG, to turning objectives into separate UK and US draft texts, to consolidating and locking down provisions in the final treaty text, and finally, exchanging tariff offers. It should be noted that the UK and US have progressed at a remarkable speed in comparison with international precedents such as the US-Korean FTA.

The new US Administration and its likely impact on US/UK negotiations

New US representatives will have to take up posts in office under the new Administration before formal discussion between the UK and US can reconvene. While there is a pause in negotiations in the formal sense, informal discussions have nevertheless continued. The UK is ready to take the negotiation to the next round.

The Biden Administration is very different to its predecessor. President Biden will have very different political emphases such as climate and labour. Once formal negotiations resume, the UK will defer to the Biden Administration's priorities, which will not be the same as everything previously negotiated. However, the self-interests of the UK and the US in achieving an FTA will hopefully drive us forward to reaching a satisfactory agreement.

The US Trade Promotion Authority's current mandate will expire in June 2021. The UK is aware of this timing and will continue to strive for an ambitious trade agreement at speed, without concessions on quality.

Features of the US/UK FTA discussion

In the financial services sector the key discussion objectives are:

- liberalisation of services and trade
- enhancement of business certainty
- reduction of costs which includes regulatory cooperation and transparency

In the digital space, the main discussion objectives are:

- facilitation of digital trade, which includes the reduction of administrative barriers, promotion of electronic contracts and signatures
- data flow, reduction of data barriers and the ban of unjustified data localisation
- human business safeguards which include the enhancement of safe digital environments and transfer of personal data
- business mobility, which includes cross-Atlantic visas

Financial services legal cooperation between the US and the UK

The US-UK Financial Regulatory Working Group (“FRWG”) is key to the bilateral discussion between the US and the UK, as it joins up both treasuries and financial regulatory agencies with the objectives of fulfilling and promoting financial stability, protecting investments and promoting market efficiencies.

The third FRWG meeting took place in October 2020, covering discussion topics including financial stability and implications of COVID-19, international cooperation, 2021 priorities, and sustainable finance. Since the UK has formally left the EU, an ambitious agenda can be anticipated for 2021.

The Financial Innovation Partnership (“FIP”), a forum which sits below the FRWG, was launched in May 2019 which further deepens the bilateral engagement of the two treasuries. The FIP’s first meeting took place in August 2020, where the treasuries exchanged views on regulatory hot topics such as operational resilience, regulatory supervisory technology and digital payment.

The FRWG and FIP are distinct from, but relevant to the US/UK FTA negotiations, with clear crossing lines such as discussion on free flow of data.

Possibility of the UK diverging from EU regulatory framework

The UK has no ambition to diverge from EU rules without good reasons, and when the UK is faced with the choice of divergence, it would consider what is in the UK’s best interest.

As an example, the UK has diverged from the EU on the capitalisation of software in the calculation of capital buffer. Whilst it would not be the UK’s ambition to lower regulatory standards, nor did it leave the EU for that reason, the UK will continue to carefully examine each divergence on a case by case basis.

Potential challenges to achieving an FTA

From the experience of the 12 months of negotiation, challenges do emerge and they can only be dealt with as they arise. One potential challenge would be the contentiousness of agricultural standards, which is often the most fiercely debated topic in any FTAs. Although agricultural standards are a long way from financial services issues, they may have an impact on the overall FTA discussion.

Role and importance of BAFA

BAFA plays an extremely important role in US/UK discussions as financial services matters are highly technical. BAFA is also important because such negotiations are all done for, and on behalf of, the industry. BAFA allows for the financial services industry to contribute in real time, and the industry’s contributions and efforts are really appreciated. The Department for International Trade strives to achieve practical agreements which will be mutually beneficial to UK and US firms.

Conclusion

Over the last few weeks we have explored the future of UK/US trade in financial services with HM Treasury, TheCityUK, SIFMA, the Department for International Trade and the Department for BEIS. The impressive work of these key contributors to the UK/US negotiations will redefine the UK/US trading relationship. There are strong hopes that successful agreement and continual dialogues will establish a new gold standard in cross border regulatory and supervisory cooperation, creating a transatlantic capital markets powerhouse with a strong focus on financial innovation and green finance.

To revisit the webinar summaries, please click below:

- [20 January 2021 - Isobel McIntosh, HM Treasury](#)
- [3 February 2021 - Lisa Vainio, TheCityUK](#)
- [10 February 2021 - Peter Matheson, SIFMA](#)
- [17 February 2021 - James Flannery, HM Treasury](#)

To read our dedicated briefing on the US-UK negotiations, please [click here](#).

