

Framing Agricultural Negotiations under a U.S.– UK Free Trade Agreement

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Abstract

As a result of Brexit the UK is now able to pursue an independent trade policy, including entering into free trade agreements (FTA) with non-EU trading partners. A top trade priority for the UK government post Brexit was to enter an FTA with the United States. While formal FTA negotiations were launched in 2020, progress has stalled under the Biden administration's new U.S. "worker-centered" trade policy in which pursuing FTA negotiations launched under previous Administrations is not a high priority. It is unclear if, and when, formal U.S.-UK FTA negotiations will resume. However, pressure for a resumption is coming from some policymakers in U.S. Congress as well as several agricultural business leaders and industry representatives, who have expressed hope the negotiations will resume so that market access barriers to U.S. exports in the UK market can be addressed. This paper is to provide a "state of play," as well as background information and data in support of U.S. policymakers and the Administration's agricultural trade negotiators if formal U.S.-UK FTA talks resume. It summarizes progress to date and provides perspective on what is at stake for the negotiation in terms of opportunities for increased market access for U.S. agricultural exports. It also provides a description of recent agricultural trade trends between the United States and the UK. The paper also identifies the agricultural products and tariff lines likely to be covered, as well as the broad agricultural issue areas likely to be covered.

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Introduction

On January 31, 2020, the United Kingdom (UK) left the European Union (EU) (known as “Brexit”) after 47 years of membership. No longer an EU member, the UK is now able to pursue an independent trade policy, including entering into free trade agreements (FTAs) with non-EU trading partners. A top trade priority for the UK government post Brexit was to enter an FTA with the United States.

Soon after the national referendum that set Brexit in motion, a dialogue began between officials on both sides of the Atlantic. In July 2017, a Trade and Investment Working Group (TIWG) was established aimed at exploring ways to strengthen trade and investment ties and laying the groundwork for a potential future FTA once the UK had left the EU. In October 2018, then U.S. Trade Representative (USTR) Robert Lighthizer notified Congress that the Administration intended to initiate negotiations on a trade agreement with the UK after it had exited the EU, and in May 2020, USTR Lighthizer and then UK Secretary of State for International Trade, Liz Truss, announced the formal launch of trade agreement negotiations between the two countries.¹ During the remainder of 2020, five rounds of trade negotiations were held virtually, in addition to several intersessional discussions that took place between officials from both governments.

When President Biden came into office in January 2021, a new U.S. “worker-centered” trade policy was introduced that differed from those of many recent Administrations. Under this strategy, pursuing FTA negotiations launched under previous Administrations appears not to be a high priority for the current Administration. No further formal U.S.-UK FTA negotiating rounds have taken place since October 2020. Despite the hiatus in formal trade talks, U.S. engagement with the UK continued in 2021 and 2022, such as the establishment of the U.S./UK Dialogues on the Future of Atlantic Trade, which has included high-level meetings of top trade officials.

It is unclear if, and when, formal U.S.-UK FTA negotiations will resume. The Biden Administration has not signaled a timeframe for the resumption of FTA talks. In early September 2022, Liz Truss, formerly both Minister of State for International Trade and Foreign Secretary, became Prime Minister. One of her first cabinet appointments was to name Kemi Badenoch as the new Minister for International Trade, a position she has kept following the resignation of Ms. Truss and the appointment of Rishi Sunak as Prime Minister in late October 2022. It is currently unclear what will be the focus of the new Government regarding international trade and its desire for resuming FTA talks with the United States. However, pressure for a resumption is coming from some policymakers in U.S. Congress who have expressed concern about the lack of progress on addressing market access barriers to U.S. exports,

¹ The Department of International Trade was created by Prime Minister Theresa May in July 2016, following Brexit. Among its major responsibilities are trade agreement negotiations, trade and investment promotion, and administering the UK’s trade remedy laws.

including high tariffs and non-tariff barriers, that could be addressed under formal FTA negotiations.² Similarly, business leaders and industry representatives, including representatives of many agricultural industries, have also expressed hope the negotiations will resume so that market access barriers to U.S. exports in the UK market can be addressed.³

The purpose of this Working Paper is to provide a “state of play,” as well as background information and data in support of U.S. policymakers and the Administration’s agricultural trade negotiators if formal U.S.-UK FTA talks resume. It summarizes progress to date, including the progress under the TIWG and completed rounds of formal negotiations, and describes some of the engagement between both sides during the Biden Administration. The paper then provides perspective on what is at stake for the negotiation in terms of opportunities for increased market access for U.S. agricultural exports. It also provides a description of recent agricultural trade trends between the United States and the UK.

The paper then identifies the agricultural products and tariff lines likely to be covered, as well as the broad agricultural issue areas likely to be covered. These issue areas formed most of the discussions between the United States and the EU under the Transatlantic Trade and Investment Partnership (TTIP) regarding agriculture, as well as many other FTA negotiations involving the United States. The issues likely to be addressed are also informed by the testimony of numerous agricultural industries and industry representatives at a USTR hearing on negotiating objectives for a U.S.-UK Trade Agreement, January 29, 2019.⁴

Background

Brexit

On June 23, 2016, the UK voted in a national referendum to leave the EU.⁵ On March 29, 2017, the UK government informed the European Council of triggering Article 50 of the Treaty on European Union that started the process of the UK formally leaving the EU (known as “Brexit”). The UK government saw Brexit as a means of “taking back control of our borders, our laws and our money, and protect[ing] our

² The lack of movement on FTAs has been noted by individual members of Congress. For example, at a recent hearing of U.S. Senate Committee on Agriculture, Nutrition, and Forestry, *Agricultural Trade: Priorities and Issues facing America’s Farmers*. June 9, 2022, Senator Thune (R-SD) noted limited action by the Administration on trade policy directly aimed at improving market access for agricultural products, as evidenced by no movement of FTA and allowing TPA to expire, see U.S. Senate Committee on Agriculture, hearing on Agricultural Trade: Priorities and issues facing America’s Farmers, June 9, 2022. Senators Rob Portman (R- Ohio) and Chris Coons (D-Del), co-chairs of the Senate UK Trade Caucus, introduced a bill allowing the President a period of 5 years to use Trade Promotion Authority to offer a vote in Congress on a U.S.-UK FTA, see WTD, “Bill Would Boost U.S.-UK FTA Talks,” June 23, 2022. At his nomination hearing before Senate Finance Committee to become the chief agriculture negotiator, Mr. McKalip heard complaints about the Administration’s lack of movement in negotiating free trade agreements, see SFC, hearing to consider the nomination of Douglas J. McKalip, for USTR Chief Agricultural Negotiator, July 28, 2022. On October 12, 2022, a letter was sent to Kemi Badenoch by all House Ways & Means Republicans expressing hope that challenges to a U.S.-UK FTA can be overcome, see *GOP Members Call for U.S.-UK Free Trade*.

³ Thompson, oral testimony to U.S. Senate Committee on Agriculture, Nutrition, and Forestry, June 9, 2022; and USDA, FAS, *Crossing the Pond to Expand U.S. Agricultural Exports*. June 28, 2022.

⁴ USTR, Public hearing on *Negotiating Objectives for a U.S.-UK Trade Agreement*, January 29, 2019.

⁵ In the referendum, 48 percent of voters choose to remain, and 52 percent to leave. Walker, “Brexit timeline: Events Leading to the UK’s Exit from the European Union,” January 6, 2021.

economy, our security, and our United Kingdom.”⁶ Regarding international trade, by no longer being an EU member, Brexit allows the UK the ability to pursue an independent trade policy, including the ability to enter bilateral, plurilateral, and multilateral trade agreements.

Invoking Article 50 established a two-year timeframe, ending March 29, 2019, for the UK to officially leave the EU. This period was established to conduct negotiations over the terms of the withdrawal, including those governing future UK-EU trade and investment relationships. However, owing to the complexity of negotiating terms and other political roadblocks, the period was extended on several occasions.⁷ As a result, the UK did not formally leave the EU until January 31, 2020, ending 47 years of membership.

Upon leaving the EU, the UK then entered a so-called “transition period” that lasted for 11 months ending December 31, 2020. During this period, although not an EU Member State, the UK was still covered by EU-third country trade agreements and remained in the EU’s single market and customs union. This meant that the UK could negotiate, sign, and ratify independent trade agreements with non-EU countries, including with the United States, but such agreements could not enter into force until after the transition period ended. On January 1, 2021, the UK finally exited the EU single market and customs union, and non-EU country trade agreements that the UK signed before the end of the transition period took effect.⁸

U.S.-UK Trade and Investment Working Group

Soon after Article 50 was triggered, the United States and the UK established a Trade and Investment Working Group (TIWG) in July 2017.⁹ The goals of the TIWG were to:

- explore ways to strengthen trade and investment ties prior to Brexit;
- ensure that existing U.S.-EU agreements were transitioned to U.S.-UK agreements;
- lay the groundwork for a potential future FTA once the UK had left the EU; and,
- collaborate on global trade issues.¹⁰

The group met on five subsequent occasions in November 2017,¹¹ March 2018,¹² July 2018,¹³ November 2018,¹⁴ and July 2019.¹⁵ At these meetings, the group held wide-ranging discussions on agricultural

⁶ HM Government, *Taking back control of our borders, money and laws*, November 2018; and DEE, *The United Kingdom’s exit From, and new Partnership With, the European Union*, May 15, 2017.

⁷ Walker, “Brexit timeline: Events Leading to the UK’s Exit from the European Union,” January 6, 2021; and Newton, Perks and Webb. *Trade Agreements. A Reading List*. November 2, 2020.

⁸ Most of these agreements refer to FTAs with countries and regions which have FTAs with the EU, and which the UK was no longer party to following Brexit. Gov.uk, UK trade agreements with non-EU countries.

⁹ USTR, “Joint Release by USTR Ambassador Lighthizer and UK International Trade Secretary Dr. Liam Fox,” July 24, 2017.

¹⁰ USTR, “2018 Trade Policy Agenda,” 2018.

¹¹ USTR, “Joint Statement on the Second Meeting of the U.S.-UK Trade and Investment Working Group,” November 15, 2017.

¹² USTR, “Readout of the 3rd Meeting of the U.S.-UK Trade and Investment Working Group and the 1st Meeting of the U.S.-UK SME Dialogue,” March 23, 2018.

¹³ USTR, “Fourth Meeting of the U.S.-UK Trade and Investment Working Group,” July 13, 2018.

¹⁴ USTR, “Fifth Meeting of the U.S.-UK Trade and Investment Working Group,” November 9, 2018.

¹⁵ USTR, “Sixth Meeting of the U.S.-UK Trade and Investment Working Group,” July 15, 2019.

goods, investment, services, digital trade, intellectual property rights and enforcement, regulatory issues related to trade, labor, and environment and sustainable development.¹⁶ In addition, there was significant focus on small and medium-sized enterprises (SMEs).¹⁷

As part of the TIWG deliberations, U.S. and UK officials discussed existing agreements covering various goods and services trade between the United States and the EU which would no longer be applicable to the UK once it left the EU. In all, five continuity agreements were signed that came into force January 1, 2021.¹⁸ They include two bilateral agreements, on wine¹⁹ and prudential measures,²⁰ as well as three mutual recognition agreements on certain distilled spirits/spirit drinks,²¹ marine equipment,²² and telecommunications equipment, electromagnetic compatibility, and pharmaceutical good manufacturing practices.²³ The wine agreement facilitates trade in wine between the United States and UK, covers mutual acceptance of wine making practices and specifications, and provides mutual understanding regarding such issues as names of origin, labeling, wine certification and marketing conditions.²⁴ The primary provision of the distilled spirits agreement includes a commitment by both parties to restrict the use of product designations (e.g., designation of Scotch whisky must be a product of Scotland and Tennessee whiskey and Bourbon whisky must be products of the United States).²⁵

Beyond the agreements covering wine and distilled spirits, specific details of the discussions over agriculture in the TIWG were not made public. However, USTR reported that “steps were taken to

¹⁶ USTR, “Joint Statement on the Second Meeting of the U.S.-UK Trade and Investment Working Group,” November 15, 2017.

¹⁷ A significant part of the TIWG work was to establish the Small and Medium-sized Enterprises Dialogue that began meeting in March 2018 and convened at 3 subsequent TIWG meetings. The goal of the dialogue was to: “identify resources available from both countries to assist SMEs and to hear from SMEs on the opportunities and challenges they experience when trading bilaterally.” Discussions covered such issues as: access to finance and other forms of support for SMEs, ways to best protect intellectual property, as well as how to use e-commerce tools to promote SME exports, addressing obstacles faced by SMEs engaging in bilateral U.S.-UK trade, opportunities for enhancing services and digital trade through the use of emerging technologies, and best business practices for U.S.- and UK-based SMEs working in the fields of artificial intelligence, virtual reality, and mobile applications. Sources: USTR, “Readout of the 3rd Meeting of the U.S.-UK Trade and Investment Working Group and the 1st Meeting of the U.S.-UK SME Dialogue,” March 23, 2018; USTR, “Fifth Meeting of the U.S.-UK Trade and Investment Working Group,” November 9, 2018; USTR, “Sixth Meeting of the U.S.-UK Trade and Investment Working Group,” July 15, 2019; and USTR, “2020 Trade Policy Agenda,” 2020.

¹⁸ USTR, website, “U.S.-UK Trade Agreement Negotiations,” Accessed various dates.

¹⁹ USTR and DIT, “Agreement between the United Kingdom, Northern Ireland, and the United States on Trade in Wine,” January 31, 2019.

²⁰ USTR and DIT, “Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance,” January 31, 2019.”

²¹ USTR and DIT, “Agreement between the United Kingdom, Northern Ireland, and the United States on Mutual Recognition of Certain Distilled Spirits/Spirit Drinks,” January 31, 2019.

²² USTR and DIT, “Agreement between the United Kingdom, Northern Ireland, and the United States on the mutual recognition of certificates of conformity for Marine Equipment,” February 14, 2019.

²³ USTR and DIT, “Agreement of Mutual Recognition between the United States, the United Kingdom, and Northern Ireland,” February 14, 2019.

²⁴ USTR and DIT, “Agreement between the United Kingdom, Northern Ireland, and the United States on Trade in Wine,” January 31, 2019.

²⁵ USTR and DIT, “Agreement between the United Kingdom, Northern Ireland, and the United States on Mutual Recognition of Certain Distilled Spirits/Spirit Drinks,” January 31, 2019.

ensure continuity in U.S.-UK trade in organics products and recognition of veterinary inspections.”²⁶ Regarding organic products, the discussions focused on establishing organic equivalency once the UK was no longer subject to the U.S.-EU Organic Equivalency Arrangement that was signed in February 2021. This agreement allows organic products that receive certification of meeting USDA or EU organic standards to be sold as such in both countries, so producers of organic products in both countries do not need separate certifications if traded.²⁷ Regarding recognition of veterinary inspections, the aim was to ensure UK and U.S. systems of sanitary standards for animal products provide an equivalent level of health protection, while not requiring the standards to be identical. Veterinary equivalency allows trade in animal products to flow without expensive and time-consuming inspections by each party.

FTA Negotiations

On October 16, 2018, then-U.S. Trade Representative Robert Lighthizer notified Congress that the Trump Administration intended to initiate negotiations on a trade agreement with the UK, after it had exited the EU.²⁸ On November 16, 2018, USTR announced a request for public comment on objectives for an FTA with the UK and specifically invited comments on relevant barriers to trade, the economic costs of tariff removal to U.S. producers and consumers, product-specific barriers, customs issues, and other nontariff barriers.²⁹ Additional input was provided through a public hearing on the proposed U.S.-UK trade agreement that took place on January 29, 2019, and included testimony of industry representatives from the agriculture, biotechnology, manufacturing, pharmaceutical, telecommunications and software sectors, among others.³⁰ Consultations also took place between USTR and congressional and trade advisory committees in developing its positions for an FTA with the United Kingdom.³¹

On February 29, 2019, USTR published its negotiating objectives for a trade agreement with the UK.³² The negotiating objectives identified regulatory compatibility to facilitate U.S. exports and services as a goal, naming market access in the pharmaceutical, medical devices, and telecommunications sectors

²⁶ USTR, “2021 Trade Policy Agenda,” 2021.

²⁷ USDA, AMS, *National Organic Program*. July 2015.

²⁸ USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019; USTR, “Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the EU and the UK,” October 16, 2018.

²⁹ Federal Register. Request for Comments on Negotiating Objectives for a U.S.-United Kingdom Trade Agreement. A Notice by the [Trade Representative, Office of United States](#). November 16, 2018.

³⁰ Regulations.gov. “View Related Comments,” United States-United Kingdom Hearing Transcript, February 22, 2019.

³¹ USTR, “2019 Trade Policy Agenda,” 2019.

³² USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019; and USTR, “2019 Trade Policy Agenda, 2019.

specifically.³³ Regarding agriculture, key U.S objectives were to improve access to the UK market by reducing or eliminating tariffs; addressing market distortions that limit market access opportunities; improving regulatory compatibility and cooperation; and establishing rules to improve trade in agricultural products developed with biotechnology.³⁴ Broad objectives also were established regarding Sanitary and Phytosanitary Measures (SPS) measures, also aimed at improving access to the UK market for U.S. agricultural products. They included establishing SPS obligations in line with World Trade Organization (WTO) rules, particularly in regard to, “science-based SPS measures, good regulatory practice, import checks, equivalence, regionalization, certification, and risk analysis, making clear that each Party can set for itself the level of protection it believes to be appropriate to protect food safety and plant and animal health in a manner consistent with its international obligations.”³⁵

Similarly, in March 2020, the UK government published its negotiating objectives for a free trade agreement with the United States.³⁶ Like the United States, these objectives were developed following extensive public consultations that were conducted between July 20 and October 26, 2018.³⁷ While the UK negotiating objectives cover many of the same areas as those put forth by the United States, the UK objectives also intersect with the government’s internal commitments on gender, international development, and the environment. Specifically, there are objectives to advance women’s empowerment and access to the economic benefits under a U.S.-UK agreement, to support the UK government’s own objectives with regard to trade and development and the delivery of the United Nations’ Sustainable Development Goals,³⁸ and to further the UK government’s ambition to achieve net-zero carbon emissions by 2050.

³³ The negotiating objectives cover the gamut of trade issues: trade in goods; sanitary and phytosanitary measures; customs and trade facilitation; rules of origin; technical barriers to trade; good regulatory practices; transparency, publication, and administration measures; trade in services, including telecommunications and financial services; digital trade and cross-border data flows; investment; intellectual property; procedural fairness for pharmaceuticals and medical devices; state-owned and controlled enterprises; subsidies; competition policy; labor; environment; anticorruption; trade remedies; government procurement; small and medium-sized enterprises; currency; and dispute settlement. USTR, *United States-United Kingdom Negotiations: Negotiating Objectives*, February 2019, 7–8.

³⁴ USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019; and USTR, “2019 Trade Policy Agenda,” 2019.

³⁵ USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019; and USTR, “2019 Trade Policy Agenda,” 2019.

³⁶ DIT, *The UK’s objectives in trade negotiations with the United States of America*, March 2, 2020.

³⁷ The UK survey resulted in 158,720 responses received in total on this consultation. The vast majority of respondents were individuals, but input was also received by businesses, business associations, Non-Government Organizations, and Public Sector bodies. Respondents identified several priorities for negotiations which were grouped into grouped in major policy areas including: tariffs; rules of origin; customs procedures; services; digital; product standards; regulation and certification; SPS measures; competition; government procurement, IP, investment; trade remedies; dispute settlement, sustainability, and SME policy.

³⁸ Sustainable Development Goals were established at the 2015 United Nations General Assembly with a target for achievement by 2030. The goals are: No Poverty; Zero Hunger; Good Health and Well-being; Quality Education; Gender Equality; Clean Water and Sanitation; Affordable and Clean Energy; Decent Work and Economic Growth; Industry, Innovation and Infrastructure; Reduced Inequality; Sustainable Cities and Communities; Responsible Consumption and Production; Climate Action; Life Below Water; Life on Land; Peace and Justice Strong Institutions; and Partnerships to achieve the Goal.

On May 5, 2020, then United States Trade Representative Robert Lighthizer and then UK Secretary of State for International Trade, Liz Truss, announced the formal launch of trade agreement negotiations between the United States and United Kingdom.³⁹ In making the announcement, no set deadlines were established for the talks to be completed. During the remainder of 2020, five rounds of trade negotiations were held virtually: during May 5–15,⁴⁰ June 15–26,⁴¹ July 27–August 4,⁴² September 8–18,⁴³ and October 19–30.⁴⁴ In addition, several intersessional discussions took place involving officials from both governments.

During the five negotiating rounds, roughly 170 sessions took place across more than 30 agreement text chapters.⁴⁵ There is limited public information available about the status of the agricultural negotiations. However, by the end of the third round, the UK reported that “most chapter areas are now moving into the advanced stages of talks.” Between the third and fourth rounds of negotiations, the United States and UK exchanged their initial market access offers in terms of tariff concessions.⁴⁶ At the end of the fifth round, the UK reported that, “almost all chapter areas are now in the advanced stages of talks. A significant proportion of legal text has been agreed across multiple chapters. The round included focused discussions on market access for goods, including negotiations around product specific rules of origin.”⁴⁷ No further negotiation sessions occurred after October 2020.

Developments under the Biden Administration

When President Biden came into office in January 2021, a new U.S. trade policy was introduced that differed from those of many recent Administrations. Specifically, the Administration advanced a “worker-centered” trade policy, including focusing on worker rights, promoting sustainable environmental practices, improving the resilience of supply chains, combatting the COVID pandemic, trade rule enforcement, and using trade policy to advance “equitable and resilient economic growth for underserved and marginalized communities.”⁴⁸ In regard to supporting agriculture, the USTR trade

³⁹ USTR, press release, “Joint Statement of USTR Robert Lighthizer and UK Secretary of State for International Trade Elizabeth Truss,” May 5, 2020.

⁴⁰ UK Parliament, *Negotiations on the UK’s future trading relationship with the US: Update*, May 18, 2020.

⁴¹ UK Parliament, *Negotiations on the UK’s future trading relationship with the US: Update*, June 30, 2020.

⁴² Gov.UK, new story, “The third UK-U.S. Free Trade Agreement (FTA) negotiating round took place from 27 July to 7 August 2020,” August 12, 2020.

⁴³ UK Parliament, *Negotiations on the UK’s future trading relationship with the US: Update*, September 22, 2020.

⁴⁴ UK Parliament, *Negotiations on the UK’s future trading relationship with the US: Update*, November 2, 2020.

⁴⁵ Negotiating groups included those for: Anti-Corruption; Balance of Payments; Competition; Cross Border Trade in Services; Customs and Trade Facilitation; Digital; Economics; Environment; Financial Services; General Coordination; Good Regulatory Practice; Industrial Subsidies; Intellectual Property; Investment; Labor; Market Access for Agriculture, Industrial Goods, Textiles; Procurement; Rules of Origin; Sanitary and Phytosanitary; Sectoral Annexes; Services Sectors; Small and Medium Enterprises; State Owned Enterprises; Sustainability; Technical Barriers to Trade; Telecoms; and Trade Remedies.

⁴⁶ UK Parliament. *Negotiations on the UK’s future trading relationship with the US: Update*, September 22, 2020.

⁴⁷ UK Parliament. *Negotiations on the UK’s future trading relationship with the US: Update*, November 2, 2020.

⁴⁸ USTR, “2022 Trade Policy Agenda,” 2022.

agenda included “creating new opportunities for American agriculture, including using our existing FTAs and TIFAs to support U.S. agriculture exports.”⁴⁹

Consistent with this new focus, pursuing FTA negotiations launched under previous Administrations does not appear to be a high priority for the Biden administration.⁵⁰ No U.S.-UK FTA negotiations have taken place since October 2020, and recent statements from senior officials reported in the media indicate that plans for future rounds are on hold.⁵¹ In June 2021, the Sunday Telegraph reported that the then UK Secretary of State for International Trade, Liz Truss, had conceded that a trade deal with the United States was unlikely before 2023.⁵² In a February 2022 interview, regarding prospects for UK negotiations, Secretary of State for International Trade, Anne-Marie Trevelyan, expressed hope, “that maybe after the (November 2022) midterms, when they want to pick up and talk about those federal-level bits of an FTA, we stand ready to carry on those conversations.” However, soon after becoming Prime Minister, Liz Truss downplayed the prospects of an immediate resumption of FTA talks with the United States.⁵³

Despite the hiatus in formal U.S.-UK FTA negotiations, the USTR stated in its *2022 Trade Policy Agenda and 2021 Annual Report* that in 2021, “the United States continued to engage with the UK, including through multiple Trade Minister and staff level meetings, to discuss how best to advance our bilateral and multilateral trade and investment relationship.” The report also noted that in 2022, “USTR will hold several events in the United States and the United Kingdom to hear directly from our respective stakeholders on the way forward for U.S.–UK trade ties. We will engage in robust discussions and outline considerations for advancing our trading relationship to support our worker-centered trade policy.”

Consistent with the current Administration’s trade policy agenda, U.S.- UK engagement has taken several forms during 2022. In March 2022, USTR Katherine Tai and UK Secretary of State for International Trade, Anne-Marie Trevelyan, concluded the first round of discussions in Baltimore, Maryland under the U.S./UK Dialogues on the Future of Atlantic Trade.⁵⁴ A second round of discussions took place in Aberdeen, Scotland in April.⁵⁵ The aim of the dialogues is to strengthen trade ties and to seek areas of collaboration on trade priorities. The agenda at these meetings focused on a wide range of

⁴⁹ The Biden Administration’s trade initiatives are distinct from more traditional trade agreements in having less focus on tariff reductions or other market access barriers. For example, a major initiative under this trade agenda is the Indo-Pacific Economic Framework for Prosperity (IPEF) launched in May 2022. IPEF covers trade, supply chains, clean energy, decarbonization and infrastructure, tax, and anti-corruption. However, it does not appear to directly address specific market access barriers, such as tariffs and sector specific NTBs. Similarly, the U.S.-Taiwan Initiative on 21st Century Trade, a separate trade initiative of the Biden Administration, differs from a full-scale, traditional trade agreement that would specifically address market access barriers.

⁵⁰ For example, at her confirmation hearing in January 2021, for U.S. Treasury Secretary, Janet Yellen told the Finance Committee that “President Biden has been clear that he will not sign any new free trade agreements before the U.S. makes major investments in American workers and our infrastructure. Our economic recovery at home must be our top priority.” Reuters, “Domestic investment needed before new trade deals: U.S. Treasury pick Yellen,” January 21, 2021.

⁵¹ Bloomberg. “U.K.-U.S. Trade Deal Is Likely Years Away as Biden Shifts Focus,” March 26, 2021.

⁵² Telegraph, “Britain unlikely to strike a trade deal with the US before 2023, Admits Truss.” July 10, 2021.

⁵³ Guardian, “No US trade deal on the horizon, admits Truss as she flies in for Biden meeting,” September 20, 2022.

⁵⁴ USTR, press release, “Joint Statement on U.S./UK Dialogue on the Future of Atlantic Trade, March 22, 2022.

⁵⁵ USTR, press release, “Joint Statement on U.S./UK Dialogue on the Future of Atlantic Trade, April 26, 2022.

issues, including supporting SMEs; harnessing the benefits of digital trade; strengthening supply chains; supporting carbon emission-reducing and climate change initiatives; advancing trade policy that addresses gender inequality, underserved and marginalized communities, and forced labor; and food security impacted by Russia's invasion of Ukraine. Discussions took the form of roundtables attended by diverse stakeholders, including representatives of the business community, trade unions, and civil society, in addition to government trade officials.

With regard to agriculture, the U.S. Department of Agriculture (USDA) sent an agribusiness trade mission to the UK in June 2022.⁵⁶ The mission included USDA officials as well as representatives of U.S. agribusinesses, farm organizations, farmer cooperatives, and individual State Department of Agriculture officials. During the mission, 235 business-to-business meetings took place with 40 UK buyers, aimed at building understanding and cooperation between the two sides in the hope of expanding U.S. export opportunities. Government-to-government meetings also took place regarding lowering tariff and non-tariff barriers. At these meetings, U.S. officials expressed the hope that the UK will adopt "science-based and data-driven" decision-making over agricultural regulations following the withdrawal from the EU.⁵⁷ Another focus of the U.S. delegation was to engage in improved messaging and perceptions of U.S. agriculture in the UK. During the trade mission both sides expressed hope that an FTA could be negotiated between the countries.

While the Biden Administration deliberates reopening FTA negotiations, the UK strategy has been to seek MoUs with individual U.S. states. The Administration has not been involved in these MoUs, and they do not represent groundwork for future discussions at the Federal level. In 2022, MoUs were signed with Indiana (May)⁵⁸ and North Carolina (July),⁵⁹ and discussions with other states, including Oklahoma, South Carolina, Texas, and California are in progress. These MoUs provide a framework to support bilateral trade and investment between parties, such as procurement processes, research, and business collaboration. The MoUs have a sectoral focus, mostly in advanced manufacturing, automotive, pharmaceuticals, and renewable energy. However, they do not address agricultural trade barriers, such as tariff and SPS measures.⁶⁰

What's at Stake? Recent Trends in U.S.-UK Agricultural Trade

Currently the UK is a relatively small market for U.S. agricultural products. In 2021, the UK accounted for about 1 percent of U.S. agricultural exports and ranked 14th among leading exports for markets.⁶¹ U.S. agricultural exports to the UK are also narrowly focused on a few products. However, there are indicators that point to a U.S.-UK FTA that addresses both tariff and non-tariff measures (NTMs) as

⁵⁶ USDA, FAS, *Crossing the Pond to Expand U.S. Agricultural Exports*, June 28, 2022.

⁵⁷ USDA, FAS, *Crossing the Pond to Expand U.S. Agricultural Exports*, June 28, 2022.

⁵⁸ Gov.UK, Memorandum of Understanding (MOU) on economic cooperation and trade relations between the US state of Indiana and the United Kingdom, May 27, 2022.

⁵⁹ Gov.UK, press release. UK signs second state-level agreement with North Carolina, July 20, 2022.

⁶⁰ Article I, Section 10 of the U.S. Constitution mandates that "No State shall enter into any Treaty, Alliance, or Confederation," thus limiting these MoUs to declarations of shared goals or interests as opposed to binding agreements.

⁶¹ IHS Markit, GTA database, accessed September 27, 2022.

having the potential to bolster trade significantly.⁶² For example, it is noteworthy that U.S. agricultural exports to the UK are limited for many of the crops and animal products in which the United States is highly globally competitive. For example, the United States is among the world's most competitive suppliers and exporters of corn, wheat, soybeans, soybean meal, beef, poultry, pork, and cotton, all of which are imported by the UK, collectively valued at several million dollars annually. Despite that potential synergy, the United States supplies only a fraction of these imports. In 2021, less than one percent of UK imports of corn, wheat, cotton, beef, pork, and poultry were sourced from the United States.⁶³ In the same year, only about 20 percent and 4 percent of UK soybeans and soybean meal imports, respectively, came from the United States, with the vast majority supplied by Brazil and Argentina.

A recent report by USDA highlighted several opportunities for increased sales of U.S. agricultural products to the UK.⁶⁴ The report states that the market presents many opportunities for intermediate and consumer-oriented products and identifies nine major product categories that have potential to expand in the UK market. These are: (1) food preparations, (2) dried and processed fruits, (3) tree nuts, (4) fresh fruits, (5) hormone-free meat products, (6) alcoholic beverages, (7) vegetable oils, (8) organic products, and (9) ethanol. The report also notes that U.S. exporters can find more opportunities in the industrial, food retail, and ingredients markets.

There also appears to be strong support among agricultural industry representatives for a U.S.-UK FTA that lowers tariffs and addresses NTMs. Specifically, at a USTR hearing on developing negotiating objectives for a U.S.-UK FTA, testimony from 34 individual agricultural interests,⁶⁵ including many agribusinesses and trade associations, universally pointed to the benefits to their industries of an FTA by offering greater market access and export opportunities.⁶⁶

Recent trends in U.S. agricultural exports to the UK, as well as U.S. imports from the UK as presented below.

⁶² Regulations.gov. "View Related Comments," United States-United Kingdom Hearing Transcript, February 22, 2019.

⁶³ IHS Markit, GTA database, accessed various dates.

⁶⁴ USDA, FAS, *Opportunities for U.S. Agricultural Exports*, March 25, 2022.

⁶⁵ The agricultural representatives that provided comments and testimony were: Cargill, American Pistachio Growers, American Olive Oil Producers Association, USA Rice, California Table Grape Commission, U.S. Meat Export Federation, U.S. Grains Council, U.S. Wheat Associates, Welch's, Scotch Whisky Association, American Feed Industry Association, U.S. Hop Industry Plant Protection Committee, California Cherry Board, National Pork Producers Council, International Dairy Foods Association, Grocery Manufacturers Association, Corn Refiners Association, National Confectioners Association, Wine Institute, Northwest Horticultural Council, American Sugar Alliance, Cranberry Marketing Committee, American Frozen Food Institute, National Cattlemen's Beef Association, Distilled Spirits Council, National Potato Council, National Association of State Departments of Agriculture, America Farm Bureau Federation, National Association of Beverage Importers, National Milk Producers Federation, U.S. Dairy Export Council, National Grain and Feed Association, North American Export Grain Association, California Walnut Commission.

⁶⁶ Regulations.gov. "View Related Comments," United States-United Kingdom Hearing Transcript, February 22, 2019.

U.S. Agricultural Exports to the UK

U.S. agricultural exports to the UK are concentrated in chapter 22 (beverages, spirits, and vinegar), which accounted for close to one-quarters of the value during 2017–21 but are otherwise more diversified. Within this chapter roughly 40 percent of exports were of bottled and bulk wine (HS 2204), with ethanol for fuel (HS 2207) and whiskey (HS 2208) each accounting for about 20 percent of chapter 22 exports. In 2021, the United States exported \$1.8 billion in agricultural products to the UK, representing about 1 percent of all U.S. exports of agricultural products (table 1). Exports of ethanol for fuel (HS 2207.20) increased from no trade in 2017 to over \$66 million in 2021 in response to the replacement of the standard 95 octane fuel (which already had up to five per cent ethanol) with E10 fuel that contains 10 percent of ethanol.⁶⁷

U.S. exports of miscellaneous edible preparations entering the UK under chapter 21 accounted for about 12 percent of exports in 2021. By far the largest export is a basket category of processed foods, which account for \$130 million in 2021 (Schedule B 2106.90.66.98 (Edible Preparations, not canned or frozen, not containing cane and/or beet sugar). A similar value of exports are Chapter 8 products, of which nuts (especially almonds, walnut, pistachios, and pecan) account for most of the trade. The United States also exports some soybeans to the UK (Schedule B 1201.90.00), accounting for about 7 percent of exports in 2021. Vegetable exports under chapter 7 are mostly of sweet potatoes, asparagus, and navy beans.

⁶⁷ USDA, FAS, *Opportunities for U.S. Agricultural Exports*, March 25, 2022.

Table 1: U.S. agricultural exports to the UK, 2017–21 (\$1,000)

Chapter/abbreviate chapter title	2017	2018	2019	2020	2021	Average	Share
1. Live animals	117,385	176,219	51,929	39,283	43,786	44,999	2
2. Meat/edible offal	30,836	10,815	4,021	6,099	6,693	5,604	0
4. Dairy/birds' eggs/natural honey	7,449	7,384	13,741	20,270	20,803	18,271	1
5. Products of animal origin	22,882	26,083	22,444	30,719	26,269	26,477	1
6. Live trees/plants/bulbs/cut flowers	606	764	922	593	523	680	0
7. Edible vegetables/roots/tubers	128,529	121,798	106,384	106,195	92,600	101,726	6
8. Edible fruit/nuts/fruit peel	274,253	242,873	229,333	216,565	191,549	212,482	12
9. Coffee/tea/spices	22,889	17,131	16,571	13,969	17,209	15,916	1
10. Cereals	67,379	56,590	22,660	27,219	26,327	25,402	1
11. Milled products/ malt /starches	12,490	13,158	16,344	17,375	20,164	17,961	1
12. Oil seeds/ misc. grains, seeds, fruit	70,156	170,199	164,882	110,721	129,505	135,036	7
13. Lac; gums, resins	30,178	41,608	60,345	37,121	41,948	46,471	3
14. Veg. planting materials & products	346	450	385	253	625	421	0
15. Animal or vegetable fats and oils	57,542	54,887	56,789	70,423	121,498	82,903	5
16. Processed meat	3,665	2,706	3,324	3,168	1,779	2,757	0
17. Sugars and sugar confectionery	32,181	23,488	28,744	37,073	42,574	36,131	2
18. Cocoa and cocoa preparations	42,235	45,863	44,525	35,889	33,383	37,932	2
19. Processed cereal/flour/starch/milk	55,585	53,407	54,566	59,379	51,167	55,037	3
20. Processed Veg/Fruit/Nuts	51,226	47,644	49,505	44,356	42,726	45,529	2
21. Miscellaneous edible preparations	214,767	246,196	213,508	244,810	224,946	227,754	12
22. Beverages/Spirits/Vinegar	487,575	485,036	451,812	418,030	458,502	442,781	24
23. Food waste/prepared fodder	84,861	148,712	104,679	96,396	114,807	105,294	6
24. Tobacco/tobacco substitutes	1,715	3,955	5,338	114	209	1,887	0
29. Organic chemicals	688	504	362	692	498	517	0
33. Essential oils and resinoids	114,467	104,439	94,301	90,316	80,874	88,497	5
35. Albuminoidal substances	21,484	19,221	21,765	45,463	70,473	45,900	3
38. Misc. chemical products	1,306	2,704	1,321	1,616	591	1,176	0
41. Raw hides/skins/leather	1,440	1,966	1,551	1,624	1,089	1,421	0
43. Fur skins/artificial fur	1,163	10	7	57	92	52	0
50. Silk	74	32	11	5	16	11	0
51. Wool/animal hair/horsehair yarn	878	1,032	415	394	845	551	0
52. Cotton	1,315	2,002	1,047	702	513	754	0
53. Other vegetable textile fibers	29	36	126	165	76	122	0
Total	1,959,577	2,128,912	1,843,656	1,777,053	1,864,657	1,828,455	100

Source: IHS Markit, GTA, database accessed various dates.

U.S. Agricultural Imports from the UK

Like exports, imports are highly concentrated in chapter 22 (beverages, spirits, and vinegar), which accounted for close to three-quarters of the value during 2017–21. In 2021, the United States imported \$2.2 billion in agricultural products from the UK, representing about 1.3 percent of all U.S. imports of

agricultural products (table 2).⁶⁸ Within this chapter close to 70 percent of imports were of Irish and Scotch whiskies (HTS 2208.30.30), and whisky alone accounted for a little more than one-half of all U.S. imports of agricultural products from the UK during 2017–21. A drop in whisky sales was largely responsible for the sharp decline in imports that fell from \$2.9 billion in 2019 to \$2.2 billion in 2020. This followed the U.S. imposition of a 25 percent duty between October 2019 and June 2021 on single malt whisky as part of the WTO dispute against the EU addressing subsidies on large civil aircraft.⁶⁹ Gin (HTS 2208.50.00) is also a major U.S. import, which over the same five-year period accounted for about 13 percent of all agricultural imports from the UK.

⁶⁸ In 2021, the United States accounted for about 9 percent of UK agricultural exports to the world. (GTA, Global Trade Atlas (accessed October 7, 2022).

⁶⁹ WTO, WTO Dispute Settlement One-Page:EC and Certain Member States – Large Civil Aircraft; and BBC News, “Scotch whisky tariffs suspended,” June 21, 2021.

Table 2: U.S. agricultural imports (general) from the UK, 2017–21 (\$1,000)

Chapter/abbreviate chapter title	2017	2018	2019	2020	2021	Average	Share (%)
1. Live animals	64,531	53,641	45,136	45,879	56,440	49,151	2
2. Meat/edible offal	40,204	51,316	46,445	24,791	32,889	34,708	1
4. Dairy/birds' eggs/natural honey	56,912	70,601	79,846	57,542	86,034	74,474	3
5. Products of animal origin	1,767	1,859	2,520	2,203	2,618	2,447	0
6. Live trees/plants/bulbs/cut flowers	4,418	4,251	4,567	3,885	5,251	4,568	0
7. Edible vegetables/roots/tubers	4,723	5,291	5,718	7,054	8,124	6,965	0
8. Edible fruit/nuts/fruit peel	730	289	803	728	1,109	880	0
9. Coffee/tea/spices	18,633	20,028	21,427	22,237	24,983	22,882	1
10. Cereals	17,882	557	387	10,471	403	3,753	0
11. Milled products/ malt /starches	63,300	47,545	34,016	30,415	37,669	34,033	1
12. Oil seeds/ misc. grains, seeds, fruit	11,242	10,953	10,953	10,472	6,692	9,372	0
13. Lac; gums, resins	5,002	6,502	6,786	6,094	6,078	6,319	0
14. Veg. planting materials & products	76	186	231	154	174	186	0
15. Animal or vegetable fats and oils	11,586	10,487	12,583	20,343	26,040	19,656	1
16. Processed meat	0	0	0	0	0	0	0
17. Sugars and sugar confectionery	8,322	13,100	9,981	56,394	16,554	27,643	1
18. Cocoa and cocoa preparations	34,678	25,167	31,659	27,829	30,550	30,013	1
19. Processed cereal/flour/starch/milk	92,286	99,174	109,429	92,475	105,199	102,368	4
20. Processed Veg/Fruit/Nuts	13,114	16,841	13,393	14,083	11,044	12,840	1
21. Miscellaneous edible preparations	100,905	110,538	107,396	127,365	129,458	121,406	5
22. Beverages/Spirits/Vinegar	2,035,203	2,107,149	2,190,319	1,514,141	1,515,363	1,739,941	72
23. Food waste/prepared fodder	28,638	42,838	31,120	21,584	31,120	27,941	1
24. Tobacco/tobacco substitutes	977	1,662	2,106	952	854	1,304	0
29. Organic chemicals	773	1,772	1,451	1,250	1,810	1,504	0
33. Essential oils and resinoids	45,963	43,199	31,540	26,526	25,480	27,849	1
35. Albuminoidal substances	46,312	44,006	57,858	61,075	76,597	65,177	3
38. Misc. chemical products	7,039	6,200	4,018	1,597	2,342	2,652	0
41. Raw hides/skins/leather	932	892	752	46	9	269	0
43. Fur skins/artificial fur	20	144	-	-	4	1	0
50. Silk	3	5	14	14	19	16	0
51. Wool/animal hair/horsehair yarn	429	621	927	564	456	649	0
52. Cotton	17	256	49	13	9	24	0
53. Other vegetable textile fibers	191	74	82	23	12	39	0
Total	2,716,806	2,797,143	2,863,513	2,188,199	2,241,384	2,431,032	100

Source: IHS Markit, GTA, database accessed various dates.

After alcoholic beverages, the United States imports processed food products entering under chapter 21, with the majority in a basket subheading, HTS 2106.90.98 (Other food preps not elsewhere specified or included, including preparations for the manufacture of beverages, non-dairy coffee whiteners, herbal teas, and flavored honey), as well as chapter 19 products, such as bread, pastry, cake, biscuit and similar baked products. Other important imports are cheddar cheese and fertilized eggs for incubation covered in chapter 4.

Scope of Agricultural Negotiations under a U.S.-UK FTA

Product Coverage

Typically, FTAs negotiated by the United States, including negotiations under the TTIP, use the WTO definition of agricultural products.⁷⁰ Under this definition, HS codes for agricultural products are defined at the 6-digit level and are therefore the same for both the United States and UK⁷¹. There are 751 6-digit codes in the definition. The list includes the following: HS Chapters 1 to 24, less fish and fish products, plus the following HS headings and codes: 2905.43 (mannitol), 2905.44 (sorbitol), 3301 (essential oils), 3501 to 3505 (albuminoidal substances, modified starches, glues), 3809.10 (finishing agents), 3824.60 (sorbitol n.e.p.), 4101 to 4103 (hides and skins), 4301 (raw furskins), 5001 to 5003 (raw silk and silk waste), 5101 to 5103 (wool and animal hair), 5201 to 5203 (raw cotton, waste, and cotton carded or combed), 5301 (raw flax), 5302 (raw hemp). Fish and fish products are excluded which include HS chapter 3, as well as HS headings and subheadings, 1603, 1604, 1605, 0511.91, 0508.00, 1504.10, and 1504.20.⁷² Fish and fish products are typically handled in negotiations over industrial tariffs.

FTA agricultural market access negotiations are typically conducted at the 8-digit level, where codes are different between parties. For 2022, in the UK tariff schedule there are 2,107 combined nomenclature tariff codes⁷³ and in the U.S. tariff schedule there are 1,938 HS subheadings (table 3).

As shown in table 3, the UK has considerably more tariffs in chapter 2 (Meat and Edible Meat Offal), chapter 20 (Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants), and chapter 22 (Beverages, Spirits and Vinegar), while the HTS has significantly more lines in chapter 7 (Edible Vegetables and Certain Roots and Tubers). The UK's schedule for meat includes several lines for specific meat cuts and offal types that are not broken out in the U.S. schedule. The UK has more processed fruit tariffs because there are different tariffs for different levels of sugar and alcohol contained in the product. In chapter 22, the UK has several regional wine types specified. The larger number of U.S. tariffs for vegetable products in chapter 7 is because several products are subject to seasonal tariffs,⁷⁴ such that different tariffs apply depending on the time of year. Chapter 7 in the UK schedule does not contain any seasonal tariffs.

⁷⁰ WTO, Agreement on Agriculture: Annex 1.

⁷¹ HS codes are established uniformly at the international level through the World Customs Organization. More information is available here: <http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>.

⁷² Note HS codes 0106.12 (Live whales, dolphins and porpoises; manatees and dugongs, seals, sea lions, and walruses), 0208.40 (meat and edible meat offal, fresh, chilled or frozen of whales, dolphins and porpoises; of manatees and dugongs; of seals, sea lions and walruses) and 2301.20 (flours, meals and pellets, of fish or of crustaceans, molluscs, or other aquatic invertebrates, unfit for human consumption) are not excluded.

⁷³ CN codes are published in the Official Journal of the European Union. The UK published its own tariff schedule using the same CN codes as the EU schedule. However, the tariff rates differ between the UK and EU schedules, such as currency conversion of specific tariffs, tariff simplification, and liberalization.

⁷⁴ For example, 0709.30.20 covers eggplants, fresh or chilled, if entered April 1 to November 30, while 0709.30.40 covers eggplants, fresh or chilled, if entered December 1 through the following March 31.

Table 3: Number of 8-digit subheadings by chapter, UK and United States schedules

Chapter/abbreviate chapter title	WTO (6-digit)	UK (8-digit)	U.S. (8-digit)
1. Live animals	33	65	37
2. Meat/edible offal	66	248	110
4. Dairy/birds' eggs/natural honey	32	171	258
5. Products of animal origin	13	17	19
6. Live trees/plants/bulbs/cut flowers	16	46	31
7. Edible vegetables/roots/tubers	67	114	189
8. Edible fruit/nuts/fruit peel	69	119	131
9. Coffee/tea/spices	39	53	64
10. Cereals	26	55	30
11. Milled products/ malt /starches	27	74	38
12. Oil seeds/ misc. grains, seeds, fruit	49	74	71
13. Lac; gums, resins	11	14	14
14. Veg. planting materials & products	5	5	11
15. Animal or vegetable fats and oils	46	125	67
16. Processed meat	12	37	30
17. Sugars and sugar confectionery	17	44	70
18. Cocoa and cocoa preparations	11	27	78
19. Processed cereal/flour/starch/milk	19	52	80
20. Processed Veg/Fruit/Nuts	52	307	190
21. Miscellaneous edible preparations	16	39	91
22. Beverages/Spirits/Vinegar	25	212	77
23. Food waste/prepared fodder	22	64	34
24. Tobacco/tobacco substitutes	10	21	59
29. Organic chemicals	3	6	3
33. Essential oils and resinoids	9	26	17
35. Albuminoidal substances	10	26	16
38. Misc. chemical products	7	15	10
41. Raw hides/skins/leather	9	16	35
43. Fur skins/artificial fur	5	5	6
50. Silk	3	3	4
51. Wool/animal hair/horsehair yarn	11	15	41
52. Cotton	5	6	21
53. Other vegetable textile fibers	6	6	6
Total	751	2,107	1,938

Source: IHS Markit, GTA database accessed various dates.

Issue Coverage

Based on both U.S. and UK published negotiating objective statements, agriculture under a U.S.-UK FTA could cover two broad issue areas — market access and NTMs.⁷⁵ Market access negotiations will focus on tariffs, including tariff-rate quotas (TRQs) and rules of origin (ROO). Non-tariff measures will focus on sanitary/phytosanitary measures and technical barriers to trade, including geographical indicators. These issue areas formed most of the discussions between the United States and the EU under the TTIP regarding agriculture, as well as many other FTA negotiations involving the United States. Clues to specific issues for a U.S.-UK negotiation can also be gleaned from statements provided by several

⁷⁵ USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019; and DIT, *The UK's objectives in trade negotiations with the United States of America*, March 2, 2020.

agricultural industry representatives at a USTR public hearing on negotiating objectives for a U.S.-UK Trade Agreement, on January 29, 2019.⁷⁶

Market Access

Currently many agricultural products traded between the United States and the UK are subject to tariffs and TRQs. According to the WTO, the average trade-weighted U.S. agricultural tariff in 2021 was 4.5 percent, compared to the UK tariff of 14.5 percent.⁷⁷ As reported above, the United States has 1,738 8-digit tariff lines for agricultural products subject to the agreement, of which 1324 are subject to tariffs and 396 are duty free. By comparison, the UK has 2107 lines with as many as 1561 subject to tariffs and 546 are duty free. U.S.-UK FTA market access negotiations likely will focus on which tariffs will be reduced or eliminated, and the timeframes for such changes (e.g., free upon entering into force, or over an extended period, say 5 or 10 years) depending on the import sensitivity of the product.⁷⁸

Both countries impose TRQs on their more import sensitive agricultural imports. In the case of the United States, TRQs under the WTO are imposed on a limited variety of products including sugar and sugar-contains products, dairy, cotton, beef, peanuts, and tobacco. Certain other products are subject to TRQs under FTAs, for example avocados in the U.S.-Australia FTA and dried onions and garlic in the U.S.-Morocco FTA.⁷⁹ UK TRQs are imposed on a significantly broader set of products, including on beef, pork, poultry, eggs, dairy, fresh and processed horticultural products, wine, grains, animal feed, sugar, and pet food.⁸⁰

U.S.-UK FTA negotiations will also likely cover rules of origin (ROO). These rules lay out what is required of a good for it to be considered “originating” and thus be able to claim preferential duty treatment under the FTA. FTA ROOs cover the amount of imported input materials or ingredients used during the production process and the level of processing that must be carried out on imported input material or ingredients in the final product. For example, in the USMCA, ROOs limit the amount of non-originating inputs (i.e., inputs supplied by countries other than the U.S., Mexico, and Canada) in many processed agricultural products, such as the amount of non-originating butter that can be used to make cookies for them to gain preferential access with the USMCA region. ROO could be especially important in a U.S.-UK FTA because, despite Brexit, the UK likely will continue to import agricultural products from the EU that could be used as ingredients in UK processed food exports to the United States.

Non-tariff Measures

The issues that potentially will be the hardest to resolve in UK FTA negotiations relate to non-tariff measures involving food safety, quality, and consumer information. Many of these issues are addressed in the WTO Agreements on Sanitary and Phytosanitary Measures (SPS Agreement) and Technical Barriers to Trade (TBT Agreement). Disagreements have persisted for decades between the United

⁷⁶ USTR, Public hearing on *Negotiating Objectives for a U.S.-UK Trade Agreement*, January 29, 2019.

⁷⁷ WTO, “United Kingdom.” *World Tariff Profiles 2022*; and WTO, “United States.” *World Tariff Profiles 2022*.

⁷⁸ The current UK tariff schedule is based on the EU schedule that reflects EU import sensitivities, which likely will be different for the UK. For example, olive oil is import sensitive to the EU given large production in Spain and Italy, while it is unlikely to be so in the UK which does not produce olive oil.

⁷⁹ CBP, *Commodities Subject to Import Quotas*.

⁸⁰ Gov.uk, *UK tariff rate quotas 2022*, (accessed various dates).

States and EU over how these agreements should be interpreted and implemented. In the EU, regulation over food safety has been subject to a “precautionary principle”⁸¹ that postulates when scientific evidence is inconclusive or incomplete over a product or practice that may endanger the health of humans, plants, and animals, as well as the environment, there are grounds for banning the use until sufficient scientific data are available. What is unclear is where the UK will position itself regarding these issues, and whether it will continue to take the same approach as the EU, or whether it aligns its position to be more in line with the United States.

Several well-known conflicts between the United States and EU have developed because U.S. exports have been blocked by the EU by reason of the precautionary principle. For example, the U.S. government views the EU ban on U.S. exports of chicken if the carcasses have been treated with a chlorine wash to remove pathogens as not based on scientific data. Similarly, representatives of the U.S. pork industry view the EU ban on U.S. exports of pork produced with the feed additive, ractopamine, as not based on scientific evidence, particularly because the Codex Alimentarius Commission has announced the substance to be safe.⁸² Currently the United States has very limited access to the EU beef market owing to restrictions on the use of certain growth hormones, even though such restrictions were judged in a WTO dispute to be inconsistent with its WTO obligations.⁸³ There has also been conflict between the United States and EU over the timeliness and complexity of EU processes and regulations regarding approval of agricultural biotechnology, as well as methods of approving pesticide and the active substance in a pesticide, and establishing maximum residue levels for pesticides and crops.⁸⁴ Similarly, concerns have been expressed by the U.S. peanut industry that their exports to the UK have been harmed by rigorous and unreasonable aflatoxin testing requirements.⁸⁵

At the USTR hearing on negotiating objectives, several industry representatives called for a U.S.-UK FTA in which all sanitary and phytosanitary standards are internationally recognized, science-based standards recommended by the World Organization for Animal Health (OIE) and the Codex Alimentarius (Codex). They universally supported to view that science-based standards should be based on risk-based decision-making supported through risk-based analysis.⁸⁶ Several representatives also expressed approval of how SPS issues were covered in the USMCA, which included strong, “science- based” biotechnology provisions. It also established an approach to mitigating SPS barriers by establishing technical consultations that will address SPS disputes in as little as 180 days, and in the event technical

⁸¹ The precautionary approach was introduced as Principle 15 of the 1992 Rio Declaration states. It states that, “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” UN, *Report of the United National Conference on Environment and Development*, August 12, 1992. United Nations General Assembly. Report of the United National Conference on Environment and Development (Rio de Janeiro). August 12, 1992.

⁸² Thorn (NPPC), oral testimony to USTR, January 29, 2019.

⁸³ WTO, *WTO Dispute Settlement One-Page: EC – Approval and Marketing of Biotech Products*; and USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, p. 196, 2022.

⁸⁴ Gaibler (U.S. Grain Council), oral testimony to USTR, January 29, 2019; and USITC, *Global Economic Impact of Missing and Low Pesticide Maximum Residue*, 2020.

⁸⁵ Karla Thompson, representing the U.S. peanut industry. Senate Ag Committee meeting.

⁸⁶ USTR, Public hearing on *Negotiating Objectives for a U.S.-UK Trade Agreement*, January 29, 2019.

consultations are unable to resolve the SPS dispute, the parties have the option to use the dispute-settlement process under Chapter 31 of USMCA.⁸⁷

Geographical indications (GIs) have also been a source of contention between the United States and EU in agricultural trade, particularly regarding wine, cheese, and sausage. The U.S. dairy industry is especially concerned that the UK will try to monopolize the use of certain cheese names the United States and many other countries regard as generic (such as cheddar), and by doing so create an unfair trade barrier.⁸⁸ The GI negotiations under TTIP ended without resolution. However, there are signals that the UK will offer more flexibility on this issue. For example, according to a dairy industry representative, “the UK has been a model of how to do GIs right to date,” with the UK seeming in support of the continued use of common names.⁸⁹

While concerns about these non-tariff measures were raised by U.S. officials during TTIP negotiations, there appears to have been little progress in finding common ground. As a member of the EU, on certain issues the UK was generally considered to be less “hard line” regarding many of the SPS and TBT issues than other EU members. However, given that the EU will continue to be by far the largest market for UK agricultural exports, there is concern that much of the UK agricultural industry will keep its regulatory regime aligned with that of the EU in a way that could jeopardize a more open trade environment between the United States and UK going forward.

⁸⁷ Chapter 31 of the USMCA sets out the process and timeframes for dispute settlement among parties. The process includes initial consultations, panel establishment, a panel report that includes findings and determination of whether a Party has violated its USMCA obligations, and recommendations as to how to resolve the dispute. (USTR). Agreement between the United States of America, the United Mexican States, and Canada 7/1/20 Text.

⁸⁸ Carlin (IDFA), oral testimony to USTR, January 29, 2019; and Morris (NMPF) oral testimony to USTR, January 29, 2019.

⁸⁹ Morris (NMPF) oral testimony to USTR, January 29, 2019.

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