Fragmentation and decline? The UK and the global trading system after Brexit

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The international political environment will inevitably affect the UK government's ability to pursue its trade policy goals after Brexit. Global trade politics is marked by significant institutional fragmentation, creating a difficult environment for a 'middle power' like the UK. In order to safeguard progressive policy objectives, the UK should pass a Trade Bill that would bring trade policy under domestic public scrutiny.

Speaking to *Politico* in September 2017, the UK's international trade secretary Liam Fox announced that due to capacity constraints Britain is unable to negotiate trade agreements with preferred partners such as the US, Australia, and New Zealand until after Brexit negotiations have been accomplished.[1] For the time being, the government seeks to temporarily adopt forty-or-so existing EU trade agreements. In this context, Fox warns that countries such as Japan, South Korea, and Switzerland may extract more wide-reaching trade concessions from the UK in these negotiations than the liberalisation baseline in the existing EU agreements. This constitutes a notable change in tone compared to Fox's Free Trade Speech in Manchester in September 2016, when a vision of Britain reaping the benefits of its post-Brexit role as global free trade champion reigned supreme.[2]

The government's scaling down of international trade policy ambitions over the past year is unsurprising, given the increasing political and institutional fragmentation of the global trading system and Britain's economic status as a middle-sized global trader.[3] If the shift comes as a surprise to some observers, this is due to how the post-Brexit trade debate has played out in the country to date. Much discussion has centred around who the UK's preferred international trade partners would or should be post-Brexit. Yet, the global trade regime is riddled with its own power struggles and political trends, with or without Brexit. Commentators have largely disregarded the question of how this international political environment affects the government's ability to pursue its trade policy goals.

This essay provides a corrective to the debate. It first outlines the degrees of institutional and political fragmentation in the global trade regime that the UK will be confronted with if and when trade policy autonomy returns from Brussels. Second, it asks what levels of influence and power Britain may possess post-Brexit to influence global trade rules on its own terms. In lieu of a conclusion, the essay reflects on a number of trade topics in bilateral and multilateral deals that a radical trade politics might be concerned with at this point in time.

Failed negotiations and global value chains

While the second half of the twentieth century experienced a surge in the number, reach, and political and economic impact of international trade agreements, the first decades of the twenty-first century have seen the increasing institutional fragmentation of this regime. Trade negotiators hold no expectations for the forthcoming Ministerial Conference of the World Trade Organization (WTO) in Buenos Aires in December. The Trade Facilitation Agreement concluded in Bali in 2013 has been the most tangible outcome of the ill-fated Doha Round of multilateral trade negotiations launched in Qatar in 2001. Negotiations on side-agreements have not fared much better. While the number of countries subscribing to the WTO's Information Technology Agreement expanded in recent years, the Trade in Services Agreement and the Environmental Goods Agreement negotiations have stalled, and their future remains uncertain. Meanwhile, the current US administration appears set to prevent appointments to the WTO's dispute settlement system, potentially putting an end to the legal certainty in global commercial exchanges that the multilateral trading system was hailed for since the WTO's inception in 1995.[4]

Mega-regional agreements such as the Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP) have not yet come to fruition. If they do, they lack the institutional backbone of an international bureaucracy akin to the WTO Secretariat, capable of monitoring commitments and facilitating enforcement. These developments indicate that the global trading system is currently shifting (back) to more power-based, rather than rules-based, types of international interactions. Country-by-country agreements continue to flourish, but do not resolve the institutional issue. In addition, they create what the economist Jagdish Baghwati has famously called 'spaghetti bowls of protectionism', that is to say overlapping networks of trade agreements that are so dense that they obscure rather than clarify and simplify the global rule book for commercial exchanges.

Meanwhile, ideological contestations around free trade as a policy goal are realigning in view of the increasing pervasiveness of global value chains in the world economy. Global value chains are complex transnational production and consumption networks that are usually controlled by one core corporation or one core group of corporations. A familiar example is one favourite British day-to-day item: the smart phone. Depending on the maker, Britons smart phones are developed in North America, Europe, or Asia. Rare minerals are mined in Africa, assembly takes place in Asia, and distribution is managed in Europe – a range of suppliers, manufacturers, retailers and consumers are connected along an economic chain spanning four continents.

Embracing the global value chain model as the dominant form of production and consumption in the twenty-first century has implications for trade policy.[5] In terms of national trade policy making, the global value chains perspective implies that the government should set domestic regulation and international trade rules with a view to giving corporations a better chance at joining or controlling a production process. This translates into full liberalisation of the merchandise and services trade, the harmonisation of regulatory standards, guarantees and potential expansion of intellectual property rights, investment protection, facilitation of repatriation of profits, and so forth. While trade policy reform under the global value chains perspective still aims at the removal of certain barriers to trade, it also includes a number of initiatives that require active state interference in the economy in favour of national champions. As Liam Fox's above-cited interview with *Politico* indicates, the government's prerogative is not unilaterally removing barriers to trade in Britain, as was done under the often-cited 1846 Repeal of the Corn Laws, but instead forging trade agreements that give British corporations access to the world's biggest and growing markets, whether they are in Europe, North America, or Asia. The Ricardian focus on the impact of trade on the nation is dropped, in favour of a focus on the impact of trade on the corporation. The underlying, but contested, assumption is that if corporations increase their wealth through participation in global value chains, this will translate into economic growth, more and better jobs, and increasing purchasing power for consumers.

While many leading scholars, research bodies, and international organisations such as the OECD, the World Bank and the WTO today embrace the global value chains perspective and recommend that governments adjust their trade policies accordingly, numerous voices openly critique this perspective in domestic and global politics. Small and Medium Size Enterprises (SME) often suffer from the kinds of trade policy initiatives that the global value chains perspective prescribes, which partly explains why SME associations were critical towards the EU-US free trade agreement TTIP, for example. Civil society groups lament that more progressive policy goals such as labour rights, sustainable development, and human rights are gutted from the agenda of international trade policy in the global value chains perspective, and cast into the realm of corporate social responsibility.

In global trade governance, critical voices often come from developing countries. The Geneva-based South Centre, for example, argues that developing countries stand to benefit more from national and regional production chains rather than from joining the chain of a transnational corporation.[6] Others have denounced the global value chains perspective as a poorly disguised attempt to revive the discredited Washington Consensus. Often, these voices demand a return to the WTO negotiating table and genuine concessions in agriculture and other areas of interest to developing countries, rather than aligning trade and development assistance with the idea that developing countries need to join global value chains.

With the global trade policy community divided on the appropriate mechanisms and rationales for trade liberalisation, the question is where the UK will stand in these debates post-Brexit, and what its possibilities will be for influencing the course of global trade politics.

Being a middle power in a fragmented trade regime

A dominant theoretical view in academic scholarship on global trade politics is that hierarchies of political influence and power exist among states in the global trading system. Global trade powers are those states that hold important shares of global trade flows, have large and diversified domestic markets, and possess high levels of negotiating capacity in their national bureaucracies. Traditionally, the US and the EU have fallen into this category, while China is seen as an additional global trade power today. Global trade 'middle powers' hold significant shares of global trade and have sizeable domestic markets, or are even global market leaders in select sectors. They have good negotiating capacity and generally hold the diplomatic standing and good political relations that allow them to act as brokers in international trade negotiations. Australia, Canada, Norway, or Switzerland have traditionally been seen as middle powers in global trade. Finally, small countries are not economically relevant for global markets, although global markets may be very important for their domestic economic performance. They typically struggle with negotiating capacity and are rule-takers in global trade.

The global economy and global trade governance architecture have undergone significant changes since the UK last negotiated international trade rules on its own behalf. Studying Britain's role in the Kennedy Round taking place under the auspices of the General Agreement on Tariffs and Trade (GATT) in the 1960s, Donna Lee notes that the UK was able to use its then middle-power status to exert influence over the course of negotiations due to the experience of state-level actors and negotiating skills.[7] In 1967, the UK's GDP stood at 111 billion current USD and was almost on par with the then second and third biggest world economies at the time, Japan and France. It was eight times smaller than the world's leading economy, the US, which remained an order of magnitude larger than any other single country.[8]

In GDP terms, the UK's relative position has not declined much: it remains the fifth largest world economy today. What has changed since the 1970s is the relative size of leading economies compared to each other. The EU and China have joined the US at the top of the global trade hierarchy. The US, the EU and China have GDPs of between ten and eighteen trillion USD. With a GDP of around 2.6 trillion USD, the UK trails far behind all three. The US, the EU and China export between one and a half and three trillion USD every year, while Britain exports around 460 billion USD. The UK will rejoin the global trading system as the 'middle power' that it was in 1973, but in a global environment that is now shaped by multiple trade superpowers. This will significantly alter – and potentially weaken – its negotiating position.

The fact that political power relations in the global trade system have shifted since the UK last negotiated on its own behalf compounds the significance of these changes. From the GATT days until the early 2000s, the economies which were rule-makers in global trade were predominantly industrialised countries of comparable levels of social and economic development which by and large shared the same outlook on trade. Today, countries at varying levels of development expect to be involved in the negotiations of trade rules. Countries like Brazil, India, China, and South Africa have all become decision-making powers in global trade. As suggested above, some of these countries share the global value chains-based trade political outlook dominant in the West, notably China. For others, notably India and South Africa, this is less true.

An additional layer of complexity arises from the fact that the multilateral negotiating forum of the WTO is currently blocked politically. In multilateral trade cooperation, one large country delegation is able to engage with virtually the entire world's trading nations at the same time. In a one-country-one-deal approach, the financial and human resources of trade bureaucracies invariably become stretched by the simple fact that several teams of negotiators need to work on separate sets of negotiations. This has implications for how many deals can be negotiated at the same time, and for the quality of information and dialogue among potential trade partners. Because commitments in different agreements are often overlapping, there are risks that a trade bureaucracy could lose oversight over how commitments in different agreements relate to each other. Resource-constrained negotiations affect smaller trading nations more adversely than big global trading powers.

In terms of domestic politics, the risk is that country-by-country deals frustrate most trade constituencies. For societal stakeholders, the capacity issue is often even more urgent than for trade bureaucracies. While trade unions and civil society organisations could traditionally assign one or two staff members to follow WTO negotiations, the move towards institutional fragmentation has compromised the ability of these actors to remain on top of regulatory developments in global trade. In addition, country-by-country deals not only risk creating regulatory obscurity through the spaghetti bowl effect. They also tend to entrench commercial fragmentation of the world economy by the uneven preference structure they create, and hence leave big business less happy in the long run than might at first be surmised.

The existing network of about 270 free trade agreements in the world today contains hub-and-spoke patterns, where certain countries maintain preferential deals with third countries that do not have preferential arrangements among themselves. Typically, hub countries in these patterns impose their sets of preferred trade rules and regulations on the smaller trading partner. Because global trade powers like the US and the EU have differing regulatory preferences in certain areas, for example banking regulation, food safety, or intellectual property, hub-and-spoke patterns in trade agreements contain the risk of regulatory clashes. How the government intends to reconcile its agenda for ambitious twenty-first century trade agreements with the world's leading economies on the one hand, and pressures to comply with incoherence in their regulatory frameworks on the other hand, remains unclear, particularly given the 'middle power' status of the UK.

Trade deals and progressive politics

In this institutionally and politically fragmented global trade regime, what policy goals should the UK pursue? The question is sure to attract extensive debate. This debate needs to be informed by a clear understanding that trade agreements set international legal frameworks that remain binding beyond a given government's time in office. They are hard to renegotiate, because the expectations and import/export profiles of trading partners become entrenched around the contours of existing rules.

Given the wide reach of the global value chain agenda, trade agreements today impact on domestic rules and regulations across many domestic policy areas that are not traditionally associated with trade or economic policy more broadly. The negotiating history and public outcry around TTIP make clear that many of the issues on top of the global trade agenda today are contentious. This includes the effects of service liberalisation on the government's ability to protect the NHS and public services more generally, as well as any attempts by future governments to reverse existing privatisation. In many of the EU's ongoing trade negotiations, service and investment protection chapters explicitly outlaw roll-backs of service liberalisation in any sector of the economy. At the WTO, members name those service sectors and levels of liberalisation that they wish to commit to. All sectors not explicitly listed are excluded from service liberalisation under WTO rules (the so-called 'positive list' approach). The global standard for bilateral trade agreements is for countries to name those sectors that they do not wish to liberalise. All sectors not explicitly listed fall under the service liberalisation obligations of the agreement (the so-called 'negative list' approach). In a negative list approach – which the EU and the US will demand in talks with the UK – it is essential to formulate effective public services protection provisions that have teeth, and that explicitly exclude public services from investment protection chapters, should the agreement include the latter. The Vienna Chamber of Labour and the European Public Services Union published a study in 2016 that developed model clauses for the exclusion of public services from trade and investment agreements. The study recommended introducing clear, positive definitions of public services, explicitly excluding public services from all obligations under service liberalisation and investment chapters, and adopting language that is legally binding.[9]

Other areas in which a progressive trade politics needs to take a more cautionary approach in international trade negotiations than that which the EU and the US currently pursue as global standard setters include: the effects of regulatory harmonisation in trade agreements on food safety and consumer protection; the effects of energy chapters on meeting the UK's Paris Commitments or making any more wide-reaching efforts to combat Climate Change; the effects of investment chapters on the rule of law; and the way in which trade agreements affect the trade and development nexus.

In terms of industrial policy, trade defence instruments such as anti-dumping and anti-subsidy legislation are on the tips of everybody's tongues today. Two questions arise in this context. They are: to what extent will the UK be at the receiving end of trade defence from third countries after Brexit? The other question is to what extent the UK will be able to use trade defence instruments in order to help its domestic industries adapt to structural changes in the world economy. Trade defence is a highly technical exercise requiring well-staffed bureaucracies that employ the lawyers and economists able to conduct a trade defence investigation. This is a tall order for many countries across the world, and hence the number of WTO members that actively use trade defence is limited to big traders. The main targets of industrialised countries' trade defence measures are typically rising and emerging economies. Yet certain high profile cases show that building an effective bureaucracy that can deal with trade defence investigations should be a priority for the UK government before Britain leaves the EU. These include the recent US anti-subsidy measure against Canada's Bombardier, or the historical imposition of anti-dumping duties against Norwegian salmon imports that the EU took at the behest of Scottish salmon farmers. The two cases highlight that the UK government will require the technical and political capacity to operate in the world of trade defence measures, in addition to the high numbers of trade negotiators required to negotiate an array of parallel multilateral and bilateral negotiations.

Finally, it is essential to give the UK Parliament appropriate oversight, and to give societal stakeholders a seat at the table, when the UK's future global trade arrangements are debated and decided. This would not only help ensure that future trade agreements can attract public legitimacy, but would also be part and parcel of delivering on one of the promises of Brexit: to bring key policy areas back under domestic, democratic political control. The passing of the new Trade Bill is one crucial, ongoing political process in which this opportunity may be gained, or lost. In terms of parliamentary oversight, the procedures that are being set out now have to give Parliament a voice and a vote in ratifying future UK trade agreements. Parliament has to be guaranteed effective powers to scrutinise and amend ongoing negotiations. The view that this inhibits the negotiating authority of government is anachronistic in a time when trade agreements affect many policy areas over which Parliament has legislative rights, such as agriculture, finance, energy, or public services. In terms of transparency and democratic inclusion, the EU is routinely critiqued for its opaque trade policy formulation processes. The European Commission's monthly Civil Society Dialogue has long been denounced as one-directional, and criticised for taking on the character of a briefing rather than a dialogue by those civil society organisations that are meant to find themselves empowered by the framework. Examples of more inclusive trade policy-making than that which the EU has practised which the UK could build on range from the Finnish government practice of inviting civil society delegates onto their negotiating delegations, to the very wide-reaching forms of civil society participation adopted by the Economic Community of West African States in free trade negotiations with the European Union.[10] At this point in time in UK politics, the progressive trade policy choice would be for the the government to pass a Trade Bill that will meet basic standards of inclusivity, transparency, and good governance.[11]

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Notes

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