

# UKTPO

UK TRADE POLICY  
OBSERVATORY

What do we know about trade and  
investment agreements?

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# Why are we healthier than in 1850?

- Knowing what to do – medical science
- Organising ourselves to do it – public health
- Being able to afford it
  - Affording medical treatment, but more important
  - Nutrition, shelter, leisure, ‘less’ efficient production
  - That is, economic growth
  - Trade and investment are fundamental to growth

# Why trade?

- How does an autarkic village manage?
- Specialization
  - Economies of scale
- Inputs and technologies from abroad
- Competitive pressures
  - Selection, X-inefficiency, innovation
- Trade requires confidence (certainty?)

# Why Trade Agreements?

- Independent maximisation is sub-optimal
  - i.e. you need to cooperate
- Three sets of commitments:
  1. You believe your partner will continue to cooperate
  2. Your partner believes you will continue to cooperate
  3. Your people believe you will continue to cooperate
- #2 and #3 mean tying your hands
- #2 → foreigners need some role in policy decisions
- Examples: WTO, EU, NAFTA, CETA,

# What do Trade Agreements do (I)?

- Traditionally – remove tariffs on partners' goods
  - Stimulates trade;
  - But some may be trade diversion – switching from efficient supplier because partner doesn't pay tariffs
  - This can be harmful to third countries
- Countries swap concessions **as they wish**
  - but subject to General Agreement on Tariffs and Trade (GATT – part of WTO rules)
  - An Agreement is a package, adopted under domestic law
  - **Domestic trade-offs are unavoidable**

# What do Trade Agreements do (II)?

- More recently ‘deep’ integration (behind the border)
  - Trade efficiency (customs etc.)
  - Standards (regulations) goods and services
  - Production methods
  - Investment – a modality for trade
  - Government Procurement
  - Trade peripherals – IP, capital flows
- Why? efficiency and to level the playing field
- Extent has been much less than on tariffs
  - Many exceptions, reservations, etc.

# What Deep Trade Agreements do

- Market access – no. of suppliers, value of trade, ..
- National treatment – ‘no less favourable ...’, non-discrimination is the touchstone.
- Harmonisation of laws
- Standards:
  - harmonised, MRAs, MRAs on certification
- Regulatory cooperation
- Dispute settlement; sanctions within the agreement

# Where's the rub?

- Competition is good for other people, not me
- Regulation is deeply embedded in history and culture
  - Very sensitive (e.g. precautionary principle)
  - Regulatory bodies' objectives are usually not 'open'
- International agreements are more difficult to reverse (Treaties)
- Who writes the rules (the Agreements)



# Some irritants

# Ability to regulate anti-social activities

- Most agreements recognise the right to regulate
- But must be non-discriminatory and as little trade distorting as possible
- Law is not always entirely clear, but trade agreements are government to government
  - So diplomacy may help a lot
- Trade-offs of this sort are common domestically
  - One issue is how foreign suppliers' interests are represented

# Public service carve-out

- Most trade agreements do not cover public services (non-commercial)
- But the boundary is legally contentious
  - Wherever services purchased, NT may kick in

# Investor-State Dispute Settlement

- Origin: developed countries in developing
  - To protect investments when court systems are weak
- Panels (of three)
  - Not systematically chosen or trained
  - May have conflict of interest
  - Need not respect precedents
- Give MNCs advantages over local producers
- But, what alternative?

# Dispute Settlement (RTAs)

- Need to instil confidence if RTA is to boost trade
- Range from legal (EU) to political (EU RTAs)
- Needs to respect the sovereignty of each party
- AND be even-handed
- All systems fail without goodwill (pooling sovereignty, desire to cooperate)
- Sanctions – graduated withdrawal from RTA

# WTO Dispute Settlement

- Panels, Appellate Body, decision by DSB
- DSB can over-rule AB reports (with unanimity)
- WTO generally won't enforce RTA rules
- Despite being 'best in class', is pretty weak
  - No compulsion; can only sanction retaliation
  - Requires Member to bring a case (politics)
  - Time consuming and expensive
  - In danger of being subverted

Thank you

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