

## Enhance a US-UK Trade Agreement with Freer Movement of People

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The proposed trade agreement currently being negotiated by the United States and the United Kingdom contains important chapters on trade in goods and services, foreign investment, and other subjects, but nothing substantial on the movement of people between the two nations. To deepen the economic ties between the two allies and trading partners, negotiators should also seek provisions within the agreement, or outside of it, to remove barriers that prevent citizens of one country from living and working in the other.

The United States and the United Kingdom have been moving steadily since the spring of 2020 to negotiate an ambitious bilateral trade agreement. With the United Kingdom's departure from the European Union Customs Union on January 1, 2021, its government is free to set its own most-favored nation tariff rates with its trading partners and to negotiate its own bilateral and regional trade agreements. The US-UK talks have progressed through five rounds, covering such important areas as industrial tariffs, financial services, and agricultural trade. To fully seize this opportunity for both nations, any final agreement should also contain provisions to facilitate the freer flow of workers between the two nations.

### **SYSTEM CURRENTLY FAVORS TOURISTS OVER WORKERS**

Before the COVID-19 pandemic hit in early 2020, the flow of temporary, nonimmigrant traffic between the two nations was robust. In 2019, the United Kingdom was the third leading source of tourist and business travelers entering the United States, behind only Canada and Mexico. The United Kingdom is one of 29 visa waiver countries whose citizens can enter the United States temporarily without formal visa approval.<sup>1</sup> The main restrictions on the movement of people apply to

those who would enter the United States to live and to work for extended periods. This is where a US-UK trade agreement could deepen economic ties further.

UK citizens make up only a small percentage of immigrants who obtain legal permanent residency in the United States each year. In the last pre-COVID fiscal year, 2019, 11,337 people born in the United Kingdom were granted legal permanent residency, or green cards, allowing them to live and work indefinitely in the United States. That is barely greater than 1 percent of the more than 1 million green cards issued in FY 2019. Of the green cards awarded to immigrants from the United Kingdom, 40 percent were based on employment, whereas only 14 percent of total green cards were based on employment. The United Kingdom ranks 8th in the world in terms of employment-based green cards, but it ranks 22nd as a source of legal permanent immigrants to the United States.<sup>2</sup>

As a source of workers admitted on temporary work visas, the United Kingdom ranks fifth, behind Canada, Mexico, India, and Japan. In the pre-COVID period of FY 2019, 179,270 UK residents were admitted on nonimmigrant temporary visas. The single largest category was L1 visas for intra-company transfers (63,055), followed by O1 and O2 visas for workers with extraordinary ability or achievement (33,404), and E1 and E2 visas for treaty traders and investors (30,080).<sup>3</sup>

Although the number of UK residents entering the United States each year on immigrant and temporary worker visas is significant, the process remains overly restrictive. A freer flow of workers between the two nations would enable citizens of both nations to move where their skills are most in demand. It would allow firms in both countries to hire the workers they need to meet demand in the domestic and global markets. It would save workers and their employers alike by cutting the cost and delays of the current system. Free movement would facilitate trade in services by allowing specialists in one market to travel to meet the needs of customers in the other market. It would also enhance foreign direct investment by allowing greater flexibility for intracompany transfers. Since living standards in the two nations are comparable, it is unlikely that there would be large movements of workers in either direction.

## **ESTABLISH A NEW US-UK VISA SIMILAR TO THE E-3 VISA FOR AUSTRALIA**

To encourage the freer movement of people, a US-UK trade agreement should establish a special visa category to allow citizens of the United Kingdom to live and work in the United States without a limitation on the number of people or length of stay, with reciprocal freedom for citizens of the United States. The special visa could be part of the text of the trade agreement or part of a separate but parallel agreement. It could be patterned on existing US agreements with Australia and Canada that allow the freer bilateral movement of people.

In 2005, the United States created the E-3 visa, which allows up to 10,500 professionals from Australia to live and work in the United States. Enacted alongside the 2005 United States–Australia

Free Trade Agreement, the E-3 visa allows Australian nationals to live and work in the United States for two years and allows them to renew their visas indefinitely. To be eligible, they must have a bachelor's degree or higher and have an offer of employment in a field that requires highly specialized knowledge. E-3 visa holders' spouses and minor children can join them, and spouses are also eligible for employment.<sup>4</sup>

An equivalent visa for UK citizens could be established and expanded to allow the entry of workers in other professions that may not require a bachelor's degree, such as plumber, electrician, or other trades that are typically in demand. This visa could also relax the requirement that employers first obtain foreign labor certification, by which the potential employer certifies that there are no qualified Americans available for the position and that hiring a foreign-born worker will not negatively affect the wages and working conditions of US workers in similar fields.<sup>5</sup> Such certification is arguably unnecessary in a competitive labor market, where companies will pay market wages to attract and keep productive workers. Because of fees and other expenses connected with hiring foreign-born workers, US companies will typically prefer to hire native-born workers if any are available for the same position.

If the United States were to issue a number of these new visas proportional to the number of E-3 visas, adjusting for the larger population of the United Kingdom, then it would issue roughly 30,000 visas. Or the cap could be eliminated entirely. The visas should be available in addition to the visas already available through existing categories. A reciprocal and proportionate number of visas should be made available to US nationals to work in the United Kingdom.<sup>6</sup>

Another potential model for a specific US-UK visa could be the TN visa, which allows professionals to move between the United States and Canada. The TN (or Treaty NAFTA) visa was created in 1993 as part of the North American Free Trade Agreement between the United States, Canada, and Mexico. (The TN visa program will continue under the US-Mexico-Canada Agreement, which has superseded NAFTA.) The TN visa allows professionals in 63 designated categories to work indefinitely in either of the other two nations. Similar to holders of the E-3 visa, TN visa holders must be citizens of Canada, have the necessary professional qualifications, and have an offer of employment by an American employer. Unlike the H-1B visa, TN visas are unlimited in number and do not require foreign labor certification.

## **RELAX REGULATIONS ON OCCUPATIONAL LICENSING**

Any special US-UK visas should go beyond either the E-3 or TN visa to allow participants to work in any profession, letting market demand determine the employability of foreign-born workers. Because of the high level of development in both countries, most participants would be professionals, but more flexibility could allow workers to move between the countries depending on the needs of such sectors as construction, hospitality, and healthcare. The agreement should allow UK

citizens to come to the United States to seek work without an offer of a job, provided that immigrant workers take full responsibility for supporting themselves until becoming employed. To ensure such self-support, participants in a US-UK visa program should be barred from receiving any income support from the government. Participants should be allowed to apply for permanent residency and eventually citizenship under existing laws. Under the agreement, such freedom would be reciprocal for citizens of both nations.

A US-UK agreement on free movement should also commit the two nations to seek mutual recognition of occupational licensing systems. Given the generally high public health, safety, and professional standards in both countries, a person registered to practice an occupation in the United States should be generally recognized to practice an equivalent occupation in the United Kingdom, and vice versa—with obvious exceptions, such as the practice of law. At the same time, the two nations should seek to minimize exemptions and exclusions within that framework as much as possible. A potential model is the Trans-Tasman Mutual Recognition Act of 1997 between Australia and New Zealand, which facilitates the free flow of labor between the two nations.<sup>7</sup> Because much of the occupational licensing in the United States occurs at the state level, an international agreement at the federal level would not bind the states, but the agreement should encourage both the United States and the United Kingdom to develop mutually acceptable standards that more readily meet states' criteria for licensing and certification of professional service suppliers throughout their jurisdictions.<sup>8</sup>

## **CONCLUSION**

Although immigration is a politically sensitive topic on both sides of the Atlantic, it should not be controversial as part of an agreement between the United States and the United Kingdom. In a detailed study of a potential US-UK trade agreement, the Legatum Institute in London concluded that the movement of people should be an essential component: “There is such a shared set of values, language and laws between the UK and the US that it should be possible to ensure a situation where British and American people can live and work much more easily in each other’s countries.”<sup>9</sup>

An agreement on the freer movement of people would complement and deepen a broader US-UK trade agreement. It would enhance the freedom and opportunity of individual citizens while stimulating trade in goods and services, foreign investment, and economic growth across the Atlantic.

## ABOUT THE AUTHOR

Daniel Griswold is a senior affiliated scholar at the Mercatus Center at George Mason University and former codirector of its Trade and Immigration Project. Griswold is a nationally recognized expert on trade and immigration policy. He has authored numerous studies, testified before congressional committees, commented widely for news outlets, and written articles for the *Wall Street Journal*, the *Los Angeles Times*, and other publications. Griswold holds a bachelor's degree in journalism from the University of Wisconsin at Madison and a master's in the politics of the world economy from the London School of Economics and Political Science.

## NOTES

1. "Visa Waiver Program: Overview," US Department of State, Bureau of Consular Affairs, accessed November 24, 2020, <https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visa-waiver-program.html>.
2. "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2019," US Department of Homeland Security, October 28, 2020, <https://www.dhs.gov/immigration-statistics/yearbook/2019/table10>.
3. "Table 32. Nonimmigrant Temporary Worker Admissions (I-94 Only) by Region and Country of Citizenship: Fiscal Year 2019," US Department of Homeland Security, October 28, 2020, <https://www.dhs.gov/immigration-statistics/yearbook/2019/table32>.
4. "E-3 Specialty Occupation Workers from Australia," Citizenship and Immigration Services, last updated April 14, 2020, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/e-3-specialty-occupation-workers-from-australia>. The text of the legislation establishing the E-3 visas can be found in title V, section 501 of Real ID Act of 2005, Pub. L. 109-13, 119 Stat. 302 (2005).
5. "Permanent Workers," Citizenship and Immigration Services, last updated January 9, 2020, <https://www.uscis.gov/working-in-the-united-states/permanent-workers>.
6. For a similar US-UK visa proposal, see Daniel Ikenson, Simon Lester, and Daniel Hannan, eds., *The Ideal U.S.-U.K. Free Trade Agreement: A Free Trader's Perspective* (Washington, DC: Cato Institute, 2018), 19.
7. *Trans-Tasman Mutual Recognition Act 1997* (Cth), pt 3, div 1:15 (Austl.).
8. Related language can be found in annex 10-A, "Professional Services," of Office of the United States Trade Representative, *Australia Free Trade Agreement*, January 2005, 10-A-1.
9. Shanker A. Singham, Victoria Hewson, and Radomir Tylecote, *Developing a True Transatlantic Partnership—a High Standard Trade Agreement to Propel the Global Economy* (London: Legatum Institute, June 2017), 33.