

## Briefing for MPs for second reading of the Trade Bill, 9 January 2018

### Summary

Trade has the potential to impact on environmental protections and standards due to the wide reaching nature of many trade agreements. In order to secure a world-class environment, it is vital that UK trade policy does not result in a reduction in environmental standards and protections or in an unacceptable global sustainability footprint. Therefore, Greener UK believes that the Trade Bill needs amending to ensure that:

- Parliament's role in setting mandates for trade negotiations and having robust scrutiny of trade deals, including public consultation, is legally defined.
- The UK's trade agreements are underpinned by high environmental standards as an essential condition for market access.
- No trade agreement will impact on the UK's ability to ratify and properly implement international treaties eg the Paris Agreement or CITES.
- Sustainability impact assessments are carried out before entering trade negotiations or negotiations to replicate existing trade agreements and during the negotiation process.

### Introduction

Trade agreements seek to facilitate the flow of trade, by removing tariff barriers (ie customs duties on imported goods) and non-tariff barriers (eg differences in standards, and licencing controls). Quotas control how much of a product can be exported from one country to another.

The UK government has stated that our exit from the European Union means that we will also be leaving the single market and the customs union. This means that the UK government will gain the competence for negotiating new free trade agreements (FTAs)<sup>1</sup>. It has also signalled its intent to replicate EU trade agreements to which the UK is currently party by 'transitioning' them. The Trade Bill aims to help facilitate this process.

### The Trade Bill

The Trade Bill grants the government powers to build a future post-Brexit trade policy for the UK. Specifically the bill:

- Grants the government powers to implement any procurement obligations arising from the UK independently acceding to the WTO agreement on government procurement (GPA).
- Grants the government powers to replicate existing EU trade agreements with third-countries (eg South Korea) and implement any changes to domestic law necessary to meet the obligations within. This power has a five-year sunset clause.
- Sets out the basis for a UK Trade Remedies Authority (TRA) and enables the TRA to advise, support and assist the Secretary of State when appropriate.
- Grants powers to HMRC to collect trade data on behalf of the government and to establish a data sharing gateway between HMRC and other public and private bodies, including DIT.

### **Parliament must have a role in agreeing any significant amendments to ‘transitioned deals’**

The powers granted within the Trade Bill to allow for the replication of existing EU trade agreements are vast. While it is the government’s stated intention to ‘transition’ them with no changes, this is unlikely to be possible in practice as these agreements would be the subject of negotiation with the third countries. The more extensive these changes become, the more concerning becomes the power granted to the executive to implement these agreements. As the final terms of such trade agreements are unknown, the scope of the broad powers given to ministers under the bill is also unknown. It is not known to what extent the powers granted under the bill will be needed and what domestic legislation it might be necessary to amend to implement trade agreements with third countries. When there is such uncertainty around the use of delegated powers, such powers should not be granted without adequate parliamentary scrutiny and oversight.

Therefore, the Trade Bill should be amended to ensure that any non-technical changes to ‘transitioned deals’ should only be made following authorisation by Parliament. Any modifications of a non-technical nature to domestic legislation under the powers granted within the Trade Bill should also only be made following approval by Parliament, and where relevant, devolved administrations.

### **Parliament must have a role in agreeing future trade agreements**

Furthermore, the Trade Bill fails to legislate a role for the UK parliament in mandating, monitoring and ratifying future, new free trade agreements. Most parliaments around the world, including the US Congress and the EU Parliament, are granted an up/down vote on international treaties negotiated by the executive. However, under existing legislation the UK parliament would be unable to vote down a trade agreement. Unless the Trade Bill is amended we would therefore be moving from a regime where UK MEPs get an affirmative vote on new EU trade agreements, to one where UK MPs do not on new UK trade agreements, resulting in a loss of democratic oversight.

To secure good environmental standards within any trade agreement, their development and implementation must provide for democratic scrutiny and

oversight, civil society engagement at least during the various sustainability impact assessments and robust enforcement with effective remedies. Currently, the UK government can negotiate and ratify trade agreements without guaranteeing MPs a vote on whether to approve or reject trade deals. Parliament does not have powers to scrutinise ongoing negotiations or to propose amendments, and civil society has no right of input at all. As trade is a non-devolved matter, devolved governments also currently have no say in deals.

We believe that the government should therefore amend the Trade Bill and also commit to further trade related legislation to ensure the UK parliament's role in setting mandates for trade negotiations and the robust scrutiny of trade deals, including public consultation. This should be defined as:

- A clear role for parliament in setting and voting on the terms of the mandate for any new trade agreement, including comprehensive public consultation. Parliament should also be guaranteed a vote before any changes are made to an agreed mandate.
- To ensure negotiations are transparent and that the mandate is followed, the International Trade Select Committee should have the opportunity to comment on and feedback on negotiations.
- Parliament should have a final vote to agree or reject the final negotiated deal.

## **The Trade Bill should include a commitment to high environmental standards and international commitments**

Greener UK believes that the bill should be amended to ensure that:

- The UK's trade agreements are underpinned by high environmental standards as an essential condition for market access, including the objective of achieving sustainable management and conservation of natural resources in accordance with international obligations.
- The bill includes a commitment that no trade agreement will impact on the UK's ability to ratify and properly implement international treaties, eg the Paris Agreement, and will look to strengthen compliance and cooperation with international obligations.

Such objectives should also be contained in a UK external trade policy to be prepared by the government and approved by parliament that would apply to all future UK trade agreements.

## **Sustainability impact assessments should play an important role**

Sustainability impact assessments should be carried out for any non-technical amendments to the terms of trade entered into with 3rd countries. Impact assessments should also be carried out for any future trade agreements not covered by the Trade Bill. The impact assessment should address both the impacts on the UK and also any developing countries that are signatories to the agreement, enabling the international sustainability footprint of the UK's trade to be assessed.

Greener UK believes that the bill should be amended to ensure that:

- Sustainability impact assessments are carried out before entering trade negotiations or negotiations to replicate existing trade agreements.

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## Endnotes

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<sup>1</sup> The ability of the UK to negotiate their own FTAs is dependent on the final withdrawal agreement and will be subject to WTO, UNCLOS and other requirements

Greener UK is a group of 13 major environmental organisations, with a combined public membership of over eight million, united in the belief that leaving the EU is a pivotal moment to restore and enhance the UK's environment.

## GREENER UK

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