

Report stage of the Trade Bill: Briefing for Peers on amendments supported by Greener UK

6 March 2019

Summary

Greener UK welcomes the UK government's commitment to putting sustainability at the heart of its future approach to trade¹ and being "at the forefront of global efforts to protect and improve the natural world, driving the international community to adopt higher standards".²

Trade arrangements can lead to significant environmental harm, intensifying unsustainable patterns of production and consumption, and increasing competition from imports produced with lower environmental controls, creating pressure to reduce standards. However, trade agreements also have the potential to support improvements in environmental protections and sustainable livelihoods when backed by robust governance provisions and enforcement mechanisms.

In order to ensure that trade agreements work with, rather than against, environmental protection, Greener UK believes the Trade Bill must be amended in order to set us on the path towards an inclusive, transparent, and democratically accountable framework for addressing sustainability issues within the UK's future international trading relationships. It must also lock in environmental safeguards and support high quality, effective regulation into the future.

We understand that this bill was originally introduced with a narrow primary purpose of setting out a mechanism to 'roll over' existing EU trade agreements post-Brexit. However, with exit day rapidly approaching and no further trade legislation expected in the near future, it is important that the bill should also inform the emerging negotiations relating to new UK trading arrangements.

Greener UK supports the following amendments

1. Publication of trade policy framework

Greener UK supports amendments that would require the UK government to publish draft legislation that will create a binding framework for the UK's future trade relations. Draft legislation should be published before the UK commences negotiations in relation to, ratifies or implements, any new trade agreements.

As well as transitioning existing EU-third country trade agreements, the UK government intends to agree new trade deals with countries such as the USA and Brazil. Greener UK believes that it is critical that the negotiation and agreement of these new trade deals are guided by a comprehensive trade policy grounded in high standards and international commitments. Trade has the potential to affect

environmental protections and standards both positively and adversely. Therefore, Greener UK believes that the UK must commit to a trade policy framework that will not jeopardise our natural world or result in an unacceptable sustainability footprint.

Last week, the Secretary of State for International Trade published a command paper on processes for making free trade agreements once the UK has left the EU.³ The processes envisaged are disappointing. Amongst other things, the proposals do not require parliamentary approval of draft negotiation mandates or final agreement texts; the proposals for pre-negotiation impact assessments are inadequate; and the new scrutiny and oversight procedures which are envisaged will not be secured in legislation (on which, see further at point 4 below).

Instead, the UK's new trade policy must be developed and enacted in primary legislation before negotiations commence. It must, amongst other things:

- Set out a clear set of steps for ensuring robust and transparent democratic scrutiny and oversight of future trade negotiations, including:
 - the publication and approval by Parliament of a draft negotiating mandate at the outset, following meaningful public consultation; and
 - independent assessment of environmental impacts of the proposed international trade agreement in the UK and its trading partners.
- Require that all future trade agreements have environmental concerns at their core. To do this, they must:
 - incorporate binding and enforceable commitments to high environmental standards. Such commitments are essential in order to ensure that trade liberalisation does not lead to downward pressure on domestic standards or an increase in the global environmental footprint associated with international trade flows;
 - ensure that the results of environmental impact assessments conducted during the life of the agreement meaningfully influence its application and allow for the future suspension or termination of an agreement where necessary;
 - include a list of key environmental principles; and
 - exclude provisions for Investor State Dispute Settlement or other similar mechanisms

The bill should be amended to enable Parliament to engage in developing a future UK trade policy which supports environmental and human health, provides the public with certainty of direction of travel, and ensures that environmental considerations are not simply noted but acted upon.

2. Non-regression

Greener UK supports amendment 3 laid by Baroness Jones of Moulsecoomb, Lord Stevenson of Balmacara, Baroness Henig and Lord Purvis of Tweed.

International trade agreements have the potential to undermine or weaken essential environmental law standards and safeguards. The UK's approach to trade must not subordinate environmental protections to trade relations or potential economic gain.

All international trade agreements implemented pursuant to the Trade Bill must incorporate this principle. Existing agreements that do not currently reflect non-regression must be renegotiated to include it prior to their implementation in domestic law. A meaningful commitment to non-regression would provide a useful safety net.

Non-regression commitments are common in existing trade agreements, but need to be widened in scope and strengthened in enforceability if they are to help deliver the government's promises to improve the state of the environment. The version presented here builds on emerging norms from international environmental law.

3. Environmental standards

Greener UK supports in principle amendment 4 laid by Baroness McIntosh of Pickering, Baroness Brown of Cambridge, Baroness Henig and Baroness Jones of Moulsecoomb.

As noted above, international trade agreements have the potential to undermine or weaken essential environmental law standards and safeguards. In order to avoid this, trade agreements implemented pursuant to the bill should uphold existing UK standards by requiring that goods imported from other countries meet the same high standards required of goods produced in the UK.

4. Parliamentary approval of draft negotiation texts and trade agreements

Greener UK supports amendment 12 laid by Lord Stevenson of Balmacara, Lord Hannay of Chiswick and Lord Purvis of Tweed.

Following its departure from the EU, the UK will be responsible for agreeing its own trade deals – an activity which has fallen within the competence of the EU for several decades. The government's approach to trade post-Brexit is likely to require it to negotiate, and Parliament to scrutinise, agreements of a type that have not been within the UK's competence for some time.

This, combined with the increasingly broad scope of trade agreements and their potential to create major and long-lasting changes to domestic law and policy, means it is even more crucial Parliament has a meaningful role in scrutinising trade negotiation proposals, negotiations and agreements. Robust procedures must enhance the role of Parliament beyond that provided for by the Constitutional Reform and Governance Act 2010. New procedures must allow sufficient time for

Parliament to thoroughly analyse proposed agreements, debate their merits and, ultimately, have a meaningful role in the final approval of each deal.

Greener UK also supports amendments highlighted by Trade Justice as set out in their briefing [here](#).

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Endnotes

1 UK Government, Department for International Trade, Policy paper Preparing for our future UK trade policy (9 October 2017) available at <https://www.gov.uk/government/publications/preparing-for-our-future-uk-trade-policy>.

2 HM Government, 'A Green Future: Our 25 Year Plan to Improve the Environment' (11 January 2018), 117.

3 UK Government, Department for International Trade, 'Processes for making free trade agreements after the United Kingdom has left the European Union' (February 2019) available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782176/command-paper-scrutiny-transparency-27012019.pdf

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