

Briefing for Commons second reading of the Trade Bill

20 May 2020

Summary

Trade relationships have the potential to impact on environmental conditions and protections both here in the UK and abroad. In order to match up to the government's ambitions of global environmental leadership, it is vital that the UK designs a new trade policy that is innovative and responsive to the needs of the 21st Century. In particular, the UK's trade policy must be compatible with addressing the climate and nature crisis as well as working to achieve the government's plans to "deliver a UK and world economy which is stronger, cleaner, more sustainable and more resilient after this [Covid-19] crisis".¹

In its manifesto, the government committed that in trade negotiations it "will not compromise on our high environmental protection, animal welfare and food standards".² Amendments to the Agriculture Bill at Commons report stage, which would have prevented the import of lower standard products in trade deals, received support from across the House. The Trade Bill now provides another crucial opportunity to ensure our high standards are maintained in future trade deals.

Done badly, trade agreements can drive a race to the bottom in environmental standards and protections and contribute to an unacceptable global environmental footprint. Trade policy must instead support the development and implementation of high quality, effective regulation that will make the UK more resilient for the future. Greener UK has a core set of principles on trade that will set us on the right track.³ To help deliver this, the Trade Bill needs amending to ensure that:

- The UK's trade negotiations and agreements are underpinned by high environmental standards, including binding and enforceable non-regression provisions that protect against any weakening of environmental law or governance.
- Parliament, the public, and the devolved administrations and legislatures are given meaningful roles in trade negotiations and subsequent scrutiny of trade deals. Information should be accessible and parliament must scrutinise and vote on mandates and negotiations as they progress, up to and including on ratification.
- Trade agreements are climate aware: the UK should seek to show the world how trade and trade agreements can be made compatible with net zero ambitions, including by prioritising goods and services that are low carbon and environmentally sustainable.
- The UK does not offshore its environmental impact and undermine its domestic producers by allowing goods produced to low environmental standards to be readily imported into the UK to the detriment of existing high British standards.
- Sustainability impact assessments are carried out regularly, including before entering trade negotiations, during the negotiation process and at regular intervals after a trade agreement has entered into force.

It is only by taking a progressive approach to trade policy and trade negotiations that the government can live up to its ambitions for global environmental leadership.

Introduction

This Trade Bill has similar aims to previous Trade Bill introduced during the 2017-19 parliamentary session. It seeks to provide continuity by allowing existing trade agreements the UK has via EU membership to be 'rolled over' to continuing relationships on similar terms. It also provides for the establishment of a Trade Remedies Authority which is not covered by this briefing. The previous Trade Bill failed to complete all of its parliamentary stages, but was amended to include improved parliamentary scrutiny. Greener UK was supportive of those amendments made.

The powers in this bill are explicitly restricted to exclude new trade deals. They cannot currently be used to implement any future Free Trade Agreement (FTA) with countries such as the US, Australia or New Zealand. However, the government seemingly does not have any intention of introducing primary legislation for future FTAs. This means that there is currently no provision for the UK to set out an approach to future trade policy and specifically no adequate mechanisms to provide scrutiny of future trading negotiations in primary legislation.

Currently, the UK government can negotiate and ratify FTAs without guaranteeing MPs a vote on whether to approve or reject trade deals. Parliament does not have powers to scrutinise ongoing FTA negotiations or to propose amendments, and civil society has no right of input. As trade is a non-devolved matter, devolved governments also currently have no say in deals in spite of the potentially significant implications for devolved powers in areas such as the environment. Trade policy should be developed in a way which is transparent, democratic, builds consensus and is a benefit to all.⁴ Scrutiny of trade deals should follow best practice by ensuring parliamentary oversight, which is standard in other democracies, including the US Congress and the European Parliament.

The best place to correct this is within this bill and we have therefore proposed some changes below which would begin to solve this issue. Failing this, the government must bring forward new legislation that creates an adequate framework for trade democracy. This must establish a modern, accountable and democratic governance process for the oversight and approval for both the trade agreements covered by the Trade Bill and all trade negotiations and agreements into the future.

Parliament must have a role in trade negotiations

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" with no changes, this has proved impossible in practice as these agreements are subject to negotiation with third countries. The majority of agreements already drafted for transition contain a range of changes intended to secure smooth functioning. The more extensive changes to existing trade agreements are, the greater the concern regarding powers granted to the executive to implement these agreements.

It is not known to what extent the powers granted under the bill will be needed and what domestic legislation might be necessary to amend and 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' are only 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.

The Trade Bill should make provision for ensuring that trade policy and agreements will be compatible with addressing the climate and nature emergency

Achieving the UK's environmental goals, including net zero by 2050 and those in the 25-year environment plan, requires action across all areas of policy, including trade. The risks to the environment from poor trade policies are considerable. FTAs can promote the import of cheaper and higher carbon goods, effectively offshoring the UK's emissions. They can also allow overseas interests and investors to challenge domestic legislation that is brought in to protect the environment or embed ambitious climate measures.

New laws, policies and regulations are needed if we are to respond effectively to the climate and environmental crisis. But trade agreements can create hurdles and blockers for ambitious new measures to protect the environment and public health. The UK must establish a progressive trade policy that clearly sets out and effectively protects its right to regulate in the public interest, including with respect to climate and nature. Marginal advances in free trade cannot be used as an excuse for failures to cut emissions and restore nature.

In order to ensure that we have a trade policy that works for our environmental ambitions, Greener UK believes that the bill should be amended to ensure that:

- The UK's trade negotiations and agreements are underpinned by high environmental standards. The starting point should be that FTAs must include strong, broad and enforceable non-regression clauses that prohibit any regression in standards, not just those linked purely to economic advantages.
- The UK properly preserves its right to regulate. This is essential to ensure the law and policy needed to achieve our environmental goals can be developed and implemented. As well as positive statements about the right to regulate, UK trade policy must also create safeguards to prevent this being undermined through other measures and mechanisms, such as regulatory co-operation chapters.
- No trade agreement will impact on the UK's ability to ratify and properly implement international treaties e.g. the Paris Agreement, and will look to strengthen compliance and cooperation with international obligations by trading partners. Trade agreements will prioritise goods and services that are low carbon and environmentally sustainable.

Such objectives should also be contained in an external UK trade policy which covers future FTAs.

Import standards: minimising the UK's footprint and protecting UK producers

Trade policy and agreements seek to increase the flow of goods and services across national borders. In many areas, the UK currently has high standards for production and consumption, in order to protect public health, consumers and the environment. These standards must be upheld, and indeed improved on over time. However, a lax approach to liberalisation may result in a relaxation of our food standards or those prohibiting the use of dangerous chemicals in everyday products and could increase the amount of low-standard, low-quality goods imported into the UK. This can have the effect of both exacerbating the UK's footprint of environmental damage taking place overseas and undercutting UK producers who want to adhere to the highest standards. In order to ensure future resilience, the UK must reduce embedded environmental impacts in its imports, such as those that lead to deforestation or water stress.⁵

The UK should set out a progressive approach to trade policy that is based on high quality and sustainable production methods. This should include import bans and restrictions on goods produced in harmful, damaging, polluting or unacceptable ways, especially where such practices are illegal here in the UK. Such measures will be needed for the UK to meet its goals of global green leadership. Whilst amendments to the Agriculture Bill which would have gone some way to achieving this did not pass, there have been suggestions that food import standards, such as on hormone treated beef and chlorinated chicken, will be dealt with in the Trade Bill.⁶

Along with a clear commitment to ban imports that do not meet basic UK standards, the Trade Bill should set out the path for this policy by including commitments to an import standards policy that will protect domestic producers and our global environment. This is a complex area, and ongoing transparent mechanisms that account for expert advice and public participation will be needed to get it right. There will also be a need for continual monitoring and review to ensure standards are being upheld and to make sure policy (including bans and other restrictions) is in line with emerging technologies and practices and changing understanding of the scale of the climate and nature emergencies.

Sustainability impact assessments should play an important role

Sustainability impact assessments should be carried out for any amendments to the terms of trade entered into with third countries and fully take into account of the climate and environmental impacts for both the UK and third countries. They should also be carried out for any future trade agreements not covered by the Trade Bill. UK trade policy (and where appropriate FTAs themselves) should require that sustainability impact assessments take place during the negotiating process, prior to the final agreement of the FTA and at regular intervals throughout the life of the FTA. These impact assessments should address both the impacts on the UK and the impacts beyond the UK's borders, enabling the international sustainability footprint of the UK's trade to be assessed and minimised.

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.

- The results of sustainability impact assessments conducted during the life of an agreement meaningfully influence its application and if the impact assessments show negative effects and adequate mitigation measures are not implemented, FTAs (or certain chapters or provisions of them) must be subject to suspension or termination.
- Sustainability impact assessments cover both macro-economic impacts but also qualitative data regarding climate and environmental impacts for both the UK and third countries.

For more information, please contact Gwen Buck, Policy adviser, Green Alliance
 e: gbuck@green-alliance.org.uk
 t: 020 7630 4524

Endnotes

¹ [Our plan to rebuild: The UK Government's COVID-19 recovery strategy](#), Cabinet Office, 12 May 2020

² Conservative Party 2019 [manifesto](#) p.57

³ [Our principles for trade](#), Greener UK

⁴ [A Trade Model that works for everyone](#)

⁵ WWF and RSPB, [Risky Business, Understanding the UK's overseas footprint for deforestation-risk commodities](#), 2017

⁶ BBC news, [MPs urge UK ban on chlorinated chicken and hormone-fed beef](#), Roger Harrabin, 13 May 2020

GREENER UK

