

Briefing for Lords second reading of the Trade Bill

September 2020

Summary

Greener UK welcomes the UK government's manifesto commitment that in trade negotiations it "will not compromise on our high environmental protection, animal welfare and food standards".¹ However, without key amendments to the Trade Bill the government will not be able to achieve this aim, nor will it have in place an approach to trade that is fit for purpose. Current UK trade policy relies on outdated public and parliamentary scrutiny and is oblivious to the need to align trade with measures to reduce global carbon emissions and reverse biodiversity decline.

Trade relationships have the potential to impact on environmental conditions and protections both in the UK and abroad. In order to realise 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 global 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".² The potential appointment of Tony Abbott to the government's trade team would threaten this, given that Abbott is on record as stating that environmental standards are "peripheral issues" that side track trade talks.³

During the discussion of the Trade Bill in the House of Commons, there was a strong cross party consensus that the bill would not enable proper scrutiny of trade policy. MPs highlighted the environmental risks of new trade agreements and the issues of diluted environmental and animal welfare import standards, in particular, received widespread attention. To ensure that trade policy does not hinder the government's progress on its climate and environmental goals, we urge peers to press ministers on these issues during the bill's second reading on 8 September.

Parliament must have a role in trade negotiations

Trade negotiations and agreements should receive adequate parliamentary scrutiny. Moreover, as enshrined in the Aarhus Convention, the public must be involved in decision making relating to the environment: this is fundamental to the proper functioning of environmental democracy.

The bill should also be amended to ensure there is proper scrutiny of other, 'non-transitioned' deals, such as agreements being negotiated with the U.S., Japan, Australia, and New Zealand. The bill is currently the only legislative vehicle through which to make the necessary improvements to scrutiny in light of new agreements already being negotiated. This is why forward looking amendments have been ruled in scope, despite the bill relating to 'rollover' agreements.

Currently, the UK government can negotiate and ratify Free Trade Agreements (FTAs) without guaranteeing MPs a vote on whether to approve or reject trade deals. Parliament does not have the power to scrutinise ongoing FTA negotiations or to propose amendments, and civil society has no right of input. Devolved governments also currently

have no say on deals despite the potentially significant implications for devolved powers and competencies in areas such as the environment.

Trade policy should be developed in a way that is transparent, democratic, builds consensus and is a benefit to all.⁴ Adding scrutiny provisions to the Trade Bill would give an opportunity for the public, businesses, and NGOs to engage more actively with the negotiation process, through working with parliamentarians.

The powers granted within the Trade Bill to allow for the replication of existing EU trade agreements are extensive, but 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, the greater the concern regarding powers granted to the executive to implement these agreements. Given the high level of uncertainty around the use of delegated powers, these 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 debate and approval by Parliament.

Safeguarding our import standards

It is essential that the UK does not offshore its environmental impacts 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 standards. Polling shows there is unequivocal public support for maintaining our current food standards on a number of issues, including pesticides, antibiotics and other products.⁵

This approach must also be applied in other areas. Import restrictions on low quality goods are not only necessary to protect UK farmers, but also as a safeguard against downward pressure on environmental standards in the UK. While particularly salient for food, rules are also needed to help reduce the UK's footprint when it comes to other products such as chemicals and manufacturing.

Broadly speaking, there is 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 the growing evidence base on the scale of the climate and nature emergencies.

The Trade Bill should therefore be amended so 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.

In previous debates on the bill, it has been suggested that amendments seeking to safeguard import standards might be incompatible with global trade rules or prevent the UK from trading with nations in the Global South. This is incorrect. Trade rules enshrine the right of nations to regulate, and to require that goods and services reach specific standards for import as long as these requirements are applied fairly. Existing trade approaches also routinely include exceptions, additional support and transitional periods to ensure that nations in the Global South are not treated inequitably.

It has also been suggested that an amendment to the Trade Bill on import standards would require other countries to 'dynamically align' their standards with the UK's. This is also incorrect. The issue is around which goods should be allowed onto the UK market, whether they are produced domestically or overseas.

The recently announced Trade and Agriculture Commission, set up by the Department for International Trade, is further evidence of the government's failure to take the environmental implications of trade seriously. There is a lack of environmental representation on the Commission and there are currently no guarantees that the government will follow the recommendations of the Commission, nor that negotiators will not make concessions prior to the Commission's report. The Commission's ability to make credible recommendations on how to protect our environmental standards will be severely hampered unless its remit, lifespan and membership are expanded.

International trade agreements should align with climate and environmental goals

FTAs should be consistent with the government's ambitions and obligations on climate and the environment. Achieving the UK's environmental goals, including net zero by 2050 and those in the 25-year environment plan, will require 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 and undermining its international climate obligations. They could also allow overseas interests and investors to water down or challenge domestic legislation that is brought in to protect the environment or embed ambitious climate measures.

Without a trade policy that is aligned with the UK's climate and environmental agenda, future trade agreements could present a significant risk to the achievement of our domestic ambitions and could undermine the competitiveness of UK businesses working hard to lower their environmental and carbon footprint.⁶

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, the bill should therefore be amended to ensure that:

- An international trade agreement may not be ratified or implemented if it restricts the UK's ability to pursue its climate and environmental goals
- The government prioritises nations fully implementing multilateral environmental agreements in negotiations, and facilitates action at the WTO
- There is regular reporting on compliance with the above

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

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Endnotes

- ¹ [Conservative Party 2019 manifesto](#), p.57
- ² [Our plan to rebuild: The UK Government's COVID-19 recovery strategy](#), Cabinet Office, 12 May 2020
- ³ [Fresh controversy over Tony Abbott's Brexit trade role](#), The Guardian, 30 August 2020
- ⁴ [A Trade model that works for everyone](#), Trade Justice Movement, June 2018
- ⁵ [Report on UK attitudes to trade and food standards](#), YouGov, June 2020
- ⁶ [Aligning the UK's trade policy with its climate and environmental goals](#), Aldersgate Group, June 2020

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