

Briefing for Lords committee stage of the Trade Bill: amendments supported by Greener UK

25 September 2020

Summary

Greener UK supports the Conservative Party 2019 manifesto commitment that in trade negotiations it “will not compromise on our high environmental protection, animal welfare and food standards”. In order to put this commitment into practice, new legislative assurances will be needed that help guide and shape our trade policy.¹

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”.²

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. Amendments which Greener UK supports and believes would help further this goal are:

- Parliamentary approval of trade agreements (35) (57)
- International trade agreements: climate and environmental goals (73)
- Investor State Dispute Settlement (ISDS) (44)
- Import standards of agricultural goods (56)

Whilst we understand that the powers in this bill exclude new trade deals, the government seemingly does not intend to introduce primary legislation for future free trade agreements (FTAs). This means that there is currently no legal framework to guide and shape the development of the UK’s new trade policy. Specifically, there are no adequate mechanisms to provide scrutiny of future trading negotiations and no adequate guarantees that environmental standards will be protected against deregulatory pressure from trade deals. Greener UK’s view is that it is necessary that this bill should also inform the emerging negotiations relating to new UK trading arrangements so that the development of the UK’s trade policy can be both democratic and aligned with its ambitions for global green leadership.

Greener UK supports the following amendments

1. Scrutiny

Greener UK supports amendments 35 and 57 'Parliamentary approval of trade agreements'

Greener UK also supports amendment 62 'Free trade agreements: scrutiny by the devolved legislatures' and amendment 10 'Scrutiny of regulations arising from the implementation of rollover agreements'.

Greener UK supports amendments which ensure that trade negotiations and agreements receive adequate parliamentary scrutiny which is fundamental to the proper functioning of democracy and ensuring a voice for environmental considerations. We welcomed the fact that during the Commons stages, previous amendments relating to parliamentary scrutiny received wide cross-party support. In the previous version of the bill, the House of Lords passed an amendment which aimed to increase Parliament's scrutiny role. Amendments 35 and 57 would achieve the same policy effect and ensure:

- Before negotiations: a debate and vote for MPs on the government's negotiating objectives
- During negotiations: additional scrutiny through a dedicated parliamentary committee
- After negotiations: a vote in both Houses on a final deal, prior to ratification
- Mandatory sustainability impact assessments on the impact of the new trade deal on the environment, public health, human rights and global development
- Consultation with devolved authorities.

Trade policy should be developed in a way that is transparent, democratic, builds consensus and provides public benefit. Embedding scrutiny provisions within the Trade Bill would provide an opportunity for constituents, businesses, and civil society to engage more actively with the negotiation process through working with parliamentarians. The Trade Bill is currently the only legislative vehicle through which much needed improvements to scrutiny on new agreements already being negotiated might be introduced. This is why previous amendments on scrutiny have been ruled in scope, despite the bill relating to 'rollover' agreements.

See a further briefing on scrutiny from Trade Justice Movement [here](#).

2. Multilateral environmental agreements

Greener UK supports amendment 54 "International trade agreements: climate and environmental goals" which would ensure all future free trade agreements do not contravene the UK's environmental obligations and prioritise trading with countries already party to these multilateral environmental agreements.

This amendment would ensure an international trade agreement is implemented only if the provisions of that agreement do not conflict with, and are consistent with the United Kingdom's environmental obligations in international law. These include the Paris Agreement, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); and the Convention on Biological Diversity, including the Cartagena Protocol on Biosafety.

This amendment would also ensure trade negotiations are conducted with nations that are fully implementing relevant multilateral environmental agreements, unless specific conditions are met.

Greener UK also supports amendment 21 which would ensure that an international trade agreement is only implemented if the agreement is made with a country party to the Paris Agreement. This is welcome although other MEAs should also be covered by any such approach, as proposed in amendment 54.

Greener UK also supports amendment 12 which also go towards ensuring regulations made under the bill can only be made if the trade agreement which those regulations would implement does not contravene the UK's environmental obligations. However, we would also like to ensure that this is covered by all future free trade agreements, rather than just continuity agreements to which this bill relates and for which there is precedence for.

Greener UK also welcomes amendments 40 on 'Conditions for trade deals: environmental obligations' and 53 on 'Review of free trade agreements', which requires the review to take account of the impact of the trade deal on the need to protect and preserve the oceans, biodiversity, the rural environment and air quality, and the need to meet the UK's international obligations to combat climate change.

Greener UK also supports amendment 77 which would provide for the advice provided by the Trade Remedies Authority to also include: "analysis of how the measures proposed align with the United Kingdom's environmental obligations in international law". This would ensure that when the Trade Remedies Authority provides the Secretary of State with advice, that advice includes analysis of how any trade remedy measures being proposed would align (or not) with the United Kingdom's environmental obligations in international law.

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.

Greener UK believes that multilateral environmental agreements (MEAs) relating to climate change, and their implementation, should have supremacy over trade measures should there be a conflict. This is important because trade agreements are more often used as the basis for legal challenges than MEAs. Therefore, we support amendments which ensures there is no conflict between the two.³

3. Investor State Dispute Settlement (ISDS)

Greener UK supports amendment 44 'Involvement of judicial systems in trade disputes', which would restrict the ability of firms to use ISDS to challenge environmental regulations.

Trade has indirect as well as direct impacts on the environment and procedures such as ISDS threaten environmental law. These provisions can result in regulatory chill, where states are discouraged from introducing, or are encouraged to revoke, public interest regulations including environmental protections. This occurs because of the risk or actuality of legal action by a foreign investor on the basis that the regulation impedes the investor's ability to operate in the state.⁴

4. Import standards

Greener UK supports amendment 56 "Import of agricultural goods after IP completion day" on import standards.

It is essential that 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 standards.

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. 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 could 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.

The House of Lords recently passed amendments to safeguard UK food import standards during debates on the Agriculture Bill and this amendment would provide further reassurance on this important issue.

Amendment 56 would set a requirement for imported agricultural goods to meet animal health and welfare, environmental, plant health, food safety and other standards which are at least as high as those which apply to UK produced agricultural goods.

In addition to specific requirements for food imports, government trade policy should also include matters relating to the environmental impact of all imports. Chemicals and energy are two obvious examples of areas where the UK should seek to maintain high standards through its trade policy.

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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 [Putting climate change at the heart of trade policy](#), Greener UK, June 2020
- ⁴ [Priorities for trade and the environment through Brexit](#), Greener UK, September 2020

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