

# Trade Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**Clause 1**

LORD STEVENSON OF BALMACARA

Page 2, line 11, at end insert –

- “( ) Before making regulations under subsection (1)(e) or (f) an appropriate authority must consult such bodies as represent the interests of persons likely to be affected by the regulations including, where appropriate –
- (a) the Scottish Ministers;
  - (b) the Welsh Ministers;
  - (c) a Northern Ireland devolved authority;
  - (d) a local authority or local authorities; and
  - (e) representatives of appropriate consumer groups, businesses, trade unions and non-governmental organisations.”

Page 2, line 13, at end insert “subject to the provisions governing retained direct principal EU legislation and retained direct minor EU legislation in section 7 of the European Union (Withdrawal) Act 2018.”

Page 2, line 13, at end insert –

- “( ) Regulations under subsections (1)(a), (1)(c) or (1)(e) may not be made unless Parliamentary approval for ratifying the United Kingdom’s membership of the 1994 GPA has been sought in accordance with the procedure set out in section 20 of the Constitutional Reform and Governance Act 2010.
- ( ) Regulations under subsections (1)(b), (1)(d) or (1)(f) may not be made unless Parliamentary approval for ratifying the United Kingdom’s membership of the Revised GPA has been sought in accordance with the procedure set out in section 20 of the Constitutional Reform and Governance Act 2010.”

## Clause 2

LORD STEVENSON OF BALMACARA

Page 2, line 41, leave out “or primary legislation that is retained EU law” and insert “subject to the provisions governing retained direct principal EU legislation and retained direct minor EU legislation in section 7 of the European Union (Withdrawal) Act 2018;”

Page 2, line 47, at end insert –

- “( ) Regulations under subsection (1) may not make provisions which –
- (a) establish or extend criminal offences,
  - (b) establish or extend fees,
  - (c) amend primary legislation other than retained EU law, or
  - (d) create new public bodies.”

## After Clause 5

LORD STEVENSON OF BALMACARA

Insert the following new Clause –

### **“UK participation in EU’s Generalised Scheme of Preferences**

It shall be the objective of an appropriate authority to take all necessary steps to implement international trade agreements which enable the United Kingdom, after exit day, to fully participate in, or replicate the objectives of, the European Union’s Generalised Scheme of Preferences (GSP) for low-income and lower-middle-income countries.”

Insert the following new Clause –

### **“UK support towards an Environmental Goods Agreement**

It shall be the objective of an appropriate authority to take all necessary steps to enable the United Kingdom, after exit day, to fully participate in and fully support negotiations towards an Environmental Goods Agreement at the World Trade Organisation.”

Insert the following new Clause –

### **“Involvement of judicial systems in trade disputes**

- (1) A trade agreement is not eligible for signature or ratification by the United Kingdom unless the agreement includes the provision in subsection (2).
- (2) Legal proceedings brought against the United Kingdom under investment protection provisions included in a trade agreement will be heard by the courts and tribunals system of the United Kingdom.”

**After Clause 5 - continued**

LORD GRANTCHESTER

Insert the following new Clause –

**“Geographical Indications**

It shall be an objective of an appropriate authority to take all necessary steps to implement an international trade agreement which ensures mutual recognition of Geographical Indications in the United Kingdom and the European Union.”

**Clause 10**

LORD STEVENSON OF BALMACARA

Page 7, line 12, at end insert “, and

- ( ) analysis of the impact of such measures on consumers in the United Kingdom.”

LORD MCNICOL OF WEST KILBRIDE

Page 7, line 22, at end insert –

- “( ) The TRA must prepare an annual report detailing advice, support and assistance given to the Secretary of State, and must –
  - (a) prepare the report as soon as reasonably practicable after the end of the financial year to which it relates, and
  - (b) send the report to the Secretary of State who must lay the report before both Houses of Parliament.”

**After Clause 10**

LORD MCNICOL OF WEST KILBRIDE

Insert the following new Clause –

**“Appeals against decisions by the TRA and Secretary of State**

- (1) This section applies to the following decisions –
  - (a) a decision by the TRA under provision made by or under Schedule 4 to the Taxation (Cross-border Trade) Act 2018,
  - (b) a decision by the Secretary of State under provision made by or under Schedule 4 to the Taxation (Cross-border Trade) Act 2018.
- (2) A person affected by a decision to which this section applies may appeal against it to the Upper Tribunal.
- (3) The means of making an appeal is by sending the Tribunal a notice of appeal in accordance with Tribunal rules.
- (4) The notice of appeal must be sent within the period specified, in relation to the decision appealed against, in those rules.
- (5) The notice of appeal must set out –
  - (a) the provision under which the decision appealed against was taken; and
  - (b) the grounds of appeal.

**After Clause 10 - continued**

- (6) The grounds of appeal must be set out in sufficient detail to indicate—
  - (a) to what extent (if any) the appellant contends that the decision appealed against was based on an error of fact or was wrong in law or both; and
  - (b) to what extent (if any) the appellant is appealing against the exercise of a discretion by the TRA, by the Secretary of State or by another person.
- (7) In this section references to a decision under Schedule 4 to the Taxation (Cross-border Trade) Act 2018 includes a decision not to use an action available under the powers in that Schedule.
- (8) For the purposes of this section a decision to which effect is given by the exercise or performance of a power or duty conferred or imposed by or under an enactment shall be treated, except where provision is made for the making of that decision at a different time, as made at the time when the power is exercised or the duty performed.”

Insert the following new Clause—

**“Disposal of appeals against decisions by the TRA and Secretary of State**

- (1) This section applies to an appeal against a decision referred to in section (1) (*Appeals against decisions by the TRA and Secretary of State*).
- (2) The Tribunal must decide the appeal on the merits and by reference to the grounds of appeal set out in the notice of appeal.
- (3) The Tribunal's decision must include a decision as to what (if any) is the appropriate action for the TRA or the Secretary of State to take in relation to the subject matter of the decision under appeal.
- (4) The Tribunal must then remit the decision under appeal to the TRA and the Secretary of State with such directions (if any) as the Tribunal considers appropriate for giving effect to its decision.
- (5) The Tribunal must not direct the TRA or the Secretary of State to take any action which they would not otherwise have power to take in relation to the decision under appeal.
- (6) It is the duty of the TRA and the Secretary of State to comply with every direction given under subsection (4).”

## LORD STEVENSON OF BALMACARA

Insert the following new Clause—

**“Public interest test**

- (1) In order to inform any consideration by the Secretary of State on whether a TRA recommendation is or is not in the public interest under Schedule 4 or 5 to the Taxation (Cross-border Trade) Act 2018 the Secretary of State must, within one month of the passing of this Act, launch a consultation on what may constitute the public interest of the United Kingdom in relation to such a recommendation (the “public interest test”).
- (2) The Secretary of State must repeat the consultation held under subsection (1) at the end of each subsequent five year period.

**After Clause 10 - continued**

- (3) Following a consultation under subsection (1) or (2) the Secretary of State must by statutory instrument make regulations specifying the terms of the public interest test.
- (4) Regulations under subsection (3) must either be consistent with or amend paragraphs 15 and 20 of Schedule 4 and paragraphs 14, 15, 19 and 20 of Schedule 5 to the Taxation (Cross-border Trade) Act 2018.
- (5) A statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing regulations under subsection (3) ceases to have effect after the period of five years beginning with the day on which it comes into force.
- (7) A consultation under subsection (1) must include, but is not limited to, consultation with—
  - (a) the Scottish Ministers,
  - (b) the Welsh Ministers,
  - (c) a Northern Ireland devolved authority,
  - (d) local enterprise partnerships in England, and equivalent bodies as appropriate in Scotland, Wales and Northern Ireland, and
  - (e) such other bodies as the Secretary of State considers appropriate which must include representatives of business, trade unions, consumer groups and non-governmental organisations.”

Insert the following new Clause—

**“Economic interest test**

- (1) In order to inform any consideration by the Secretary of State or the TRA on whether the application of a safeguarding remedy meets or does not meet the economic interest test under Schedule 4 or 5 to the Taxation (Cross-border Trade) Act 2018 the Secretary of State must, within one month of the passing of this Act, launch a consultation on what constitutes the economic interest of the United Kingdom.
- (2) The consultation must have regard to, but is not limited to—
  - (a) employment,
  - (b) economic health and prosperity, and
  - (c) productivityin the United Kingdom on a regional basis.
- (3) The Secretary of State must repeat the consultation held under subsection (1) at the end of each subsequent five year period.
- (4) Following a consultation under subsection (1) or (3) the Secretary of State must by statutory instrument make regulations specifying the terms of the economic interest test.
- (5) Regulations under subsection (4) either must be consistent with or may amend paragraphs 25(2) to (4) of Schedule 4 and paragraph 23(3) of Schedule 5 to the Taxation (Cross-border Trade) Act 2018.

**After Clause 10 - continued**

- (6) A statutory instrument containing regulations under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing regulations under subsection (4) ceases to have effect after the period of five years beginning with the day on which it comes into force.
- (8) A consultation under subsection (1) or (3) must include, but is not limited to, consultation with—
  - (a) the Scottish Ministers,
  - (b) the Welsh Ministers,
  - (c) a Northern Ireland devolved authority,
  - (d) local enterprise partnerships in England, and equivalent bodies as appropriate in Scotland, Wales and Northern Ireland, and
  - (e) such other bodies as the Secretary of State considers appropriate which must include representatives of business, trade unions, consumer groups and non-governmental organisations.”

**Clause 11**

LORD MCNICOL OF WEST KILBRIDE

Page 7, line 26, leave out “request” and insert “require”

Page 7, line 33, leave out subsections (3) and (4)

**Clause 12**

LORD STEVENSON OF BALMACARA

Page 8, line 8, leave out from “trade” to end of line 10

**Schedule 2**

LORD MCNICOL OF WEST KILBRIDE

Page 15, line 36, leave out from “section 1(1)” to end of line 37 and insert “may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Schedule 4**

LORD MCNICOL OF WEST KILBRIDE

Page 19, line 27, at end insert “, with the consent of the International Trade Committee of the House of Commons,”

Page 20, line 6, at end insert —

“ Appointment as a non-executive member of the TRA is to be for a non-renewable term of not more than five years.”

**Schedule 4 - continued**

Page 20, line 10, at end insert –

“ In appointing executive members, the Secretary of State must have regard to the desirability of appointing executive members who have knowledge or experience of trade policy and matters relating to international trade generally.”

Page 20, line 10, at end insert –

“ In appointing executive members, the Secretary of State must have regard to the desirability of appointing executive members who have knowledge or experience of the interests of –

- (a) consumers,
- (b) producers, or
- (c) workers.”

Page 23, line 32, at end insert –

- “( ) The report must include a record of gifts accepted in accordance with paragraph 33(2)(c) of this Schedule.
- ( ) The record must include –
  - (a) the date of receipt of the gift;
  - (b) the name of the responsible person or organisation who gave the gift.”

Page 24, line 16, leave out paragraph 34

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*26 October 2018*

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