

Trade Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 1

LORD LENNIE

Page 1, line 16, at end insert—

- “(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of enabling greater labour market interventions and compliance with ILO standards in any UK procurement contract to which the GPA applies, and
- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
 - (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Member’s explanatory statement

This amendment would require the Secretary of State to enter into negotiations to secure greater labour rights in procurement contracts that the GPA applies to, and to report back on the outcome of these negotiations.

Page 1, line 16, at end insert—

- “(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing greater environmental exceptions and carbon considerations in any UK procurement contract to which the GPA applies, and
- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
 - (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Member’s explanatory statement

This amendment would require the Secretary of State to enter into negotiations to secure greater environmental protections in procurement contracts that the GPA applies to, and to report back on the outcome of these negotiations.

Page 1, line 16, at end insert –

- “(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing greater scope for UK small and medium-sized enterprises in any UK procurement contract to which the GPA applies, and
- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
 - (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Member’s explanatory statement

This amendment would require the Secretary of State to enter into negotiations to secure greater access for SMEs in procurement contracts that the GPA applies to, and to report back on the outcome of these negotiations.

Page 1, line 16, at end insert –

- “(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing improvements to public health as a consequence of any UK procurement contract to which the GPA applies, and
- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
 - (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Member’s explanatory statement

This amendment would require the Secretary of State to enter into negotiations to secure improvements to public health in procurement contracts that the GPA applies to, and to report back on the outcome of these negotiations.

After Clause 1

LORD PURVIS OF TWEED
LORD FOX

Insert the following new Clause –

“Report on Agreement on Government Procurement

Within six months of the United Kingdom acceding to the GPA, the Secretary of State must publish and lay before Parliament a report on what support the Government is providing to businesses in the United Kingdom to secure the advantages to them of membership of the GPA.”

Member’s explanatory statement

The new Clause requires the Secretary of State to report on the support she is giving to UK businesses to help ensure they can take advantage of the UK’s membership of the GPA.

Clause 2

LORD STEVENSON OF BALMACARA

Page 2, line 15, leave out subsections (3) and (4) and insert –

- “(3) Regulations under subsection (1) may make provision for the purpose of implementing a free trade agreement only if the other signatory (or each other signatory) and the European Union had ratified a free trade agreement with each other immediately before exit day.
- (4) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement other than a free trade agreement only if the other signatory (or each other signatory) and the European Union had ratified an international trade agreement with each other immediately before exit day.”

Member’s explanatory statement

This amendment would mean that a trade agreement would need to be ratified before regulations could be made to implement it.

Page 2, line 15, leave out subsections (3) and (4) and insert –

- “(3) Paragraph 4 of Schedule 2 applies to any regulations under subsection (1) which make provision for the purpose of implementing a free trade agreement if the other signatory (or each other signatory) and the European Union were signatories to a free trade agreement immediately before exit day.
- (4) Paragraph 4 of Schedule 2 applies to any regulations under subsection (1) which make provision for the purpose of implementing an international trade agreement other than a free trade agreement if the other signatory (or each other signatory) and the European Union were signatories to an international trade agreement immediately before exit day.
- (4A) Paragraph 4A of Schedule 2 applies to any regulations under subsection (1) which make provision for the purpose of implementing any international trade agreement not falling within subsection (3) or subsection (4) above.”

Member’s explanatory statement

This amendment would apply the provisions of the Bill to trade agreements other than EU rollover trade agreements, allowing the Bill to act as a framework for a future trade policy.

Page 2, line 23, at end insert –

- “(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with and are consistent with –
 - (a) the provisions of international treaties ratified by the United Kingdom;
 - (b) the provisions of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015;
 - (c) the primacy of human rights law;
 - (d) international human rights law and international humanitarian law;
 - (e) the United Kingdom’s obligations on workers’ rights and labour standards as established by but not limited to –

Clause 2 - continued

- (i) the commitments under the International Labour Organisation's Declaration on Fundamental Rights at Work and its Follow-up Conventions; and
- (ii) the fundamental principles and rights at work inherent in membership of the International Labour Organisation;
- (f) women's rights and the United Kingdom's obligations established by but not limited to the Convention on the Elimination of All Forms of Discrimination Against Women;
- (g) children's rights and the United Kingdom's obligations established by but not limited to the Convention on the Rights of the Child; and
- (h) the sovereignty of Parliament, the legal authority of UK courts, the rule of law and the principle of equality before the law."

Member's explanatory statement

This amendment would ensure that regulations made under the Bill can only be made if the trade agreement which the regulations would implement does not contravene the UK's international commitments with specific reference to human rights and related treaties, and must respect the sovereignty of parliament.

LORD GRANTCHESTER

Page 2, line 23, at end insert –

- “(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with and are consistent with the United Kingdom's environmental obligations in international law and as established by but not limited to –
- (a) the Paris Agreement adopted under the United Nations Framework Convention on Climate Change;
 - (b) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); and
 - (c) the Convention on Biological Diversity, including the Cartagena Protocol on Biosafety.”

Member's explanatory statement

This amendment would ensure that regulations made under the Bill can only be made if the trade agreement which the regulations would implement does not contravene the UK's environmental obligations.

LORD BASSAM OF BRIGHTON

Page 2, line 23, at end insert –

- “(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not in any way restrict the ability –
- (a) to make public services at a national or local level subject to public monopoly;
 - (b) to make public services at a national or local level subject to exclusive rights granted to private operators; and

Clause 2 - continued

- (c) to bring public services at a national or local level back into the public sector for delivery by public sector employees.”

Member’s explanatory statement

This amendment would ensure that regulations made under the Bill can only be made if the trade agreement which the regulations would implement does not contravene the ability of a UK government to take public services back into public ownership.

LORD STEVENSON OF BALMACARA

Page 2, line 23, at end insert –

- “() Regulations may not be made under subsection (1) unless the international trade agreement is replicated by, or substantially similar to, another trade agreement to which the United Kingdom was previously a party by virtue of its membership of the European Union.”

Page 2, line 27, leave out paragraph (a)

Member’s explanatory statement

This amendment would remove Henry VIII powers from the Bill.

LORD PURVIS OF TWEED
BARONESS KRAMER
BARONESS MCINTOSH OF PICKERING
LORD GRANTCHESTER

Page 2, line 33, at end insert –

- “(6A) If regulations under subsection (1) include provision in any of the areas listed in subsection (6B), the provision must be consistent with maintaining UK levels of statutory protection in that area.
- (6B) The areas referred to in subsection (6A) are –
- (a) the protection of human, animal or plant life or health;
 - (b) animal welfare;
 - (c) environmental protection;
 - (d) employment and labour.
- (6C) “UK levels of statutory protection” means levels of protection provided for by or under any –
- (a) primary legislation,
 - (b) subordinate legislation, or
 - (c) retained direct EU legislation,
- which has effect in the United Kingdom, or the part of the United Kingdom in which the regulations have effect, on the date on which a draft of the regulations is laid.”

Member's explanatory statement

This new Clause reinserts a Government amendment made to the Trade Bill in 2019 and ensures that regulations made under Clause 2(1) of the bill must be consistent with maintaining UK levels of statutory protection of human, animal or plant life or health; animal welfare; environmental protection; or employment and labour.

BARONESS MCINTOSH OF PICKERING

Page 2, line 33, at end insert –

“() Regulations under subsection (1) may not be used to make provision which will have the effect of lowering animal health, hygiene or welfare standards, protection of the environment, food safety, hygiene and traceability or human and workers' rights below EU or UK standards.”

LORD PURVIS OF TWEED

BARONESS KRAMER

Page 2, line 35, leave out “five” and insert “three”

Member's explanatory statement

This amendment reinserts a Government amendment made to the Trade Bill in 2018. It proposes to reduce, from five years to three, the time period during which (a) EU FTAs can be rolled over and (b) previously rolled over FTAs can be reamended.

Page 2, line 36, leave out “five” and insert “three”

Page 2, line 39, leave out “five” and insert “three”

Member's explanatory statement

This amendment reinserts a Government amendment made to the 2018 Trade Bill in 2018. If the Government decides to extend the period to make regulations under Clause 2, any such period should not be more than three years.

LORD STEVENSON OF BALMACARA

Page 2, line 40, after “subsection,” insert –

“(a) without the consultation of all devolved administrations, and”

LORD PURVIS OF TWEED

BARONESS KRAMER

Page 2, line 41, leave out “five” and insert “three”

After Clause 2

LORD PURVIS OF TWEED

LORD FOX

Insert the following new Clause –

“Parliamentary approval of trade agreements

- (1) Negotiations towards a free trade agreement may not commence until the Secretary of State has laid draft negotiating objectives in respect of that agreement before both Houses of Parliament, and a motion endorsing draft negotiating objectives has been approved by a resolution of both Houses of Parliament.
- (2) Prior to the draft negotiating objectives being laid, the Secretary of State must have –
 - (a) consulted each devolved authority on the content of the draft negotiating objectives, and
 - (b) produced a sustainability impact assessment including, but not limited to, an assessment of the impact on food safety, health, the environment and animal welfare.
- (3) The United Kingdom may not become a signatory to a free trade agreement to which this section applies unless a draft of the agreement in the terms in which it was to be presented for signature by parties to the agreement has been laid before, and approved by, a resolution of both Houses of Parliament.
- (4) Before either House of Parliament may be asked to approve by resolution the text of a proposed free trade agreement, the Secretary of State must –
 - (a) consult each devolved authority on the text of the proposed agreement, and
 - (b) lay before both Houses a report assessing the compliance of the text of the proposed agreement with any standards laid down by primary or subordinate legislation in the United Kingdom including, but not limited to, legislation governing or prescribing standards on food safety, health, the environment and animal welfare.
- (5) In this section –

“devolved authority” has the meaning given in section 4(1) of this Act, and

“free trade agreement” means any agreement which is –

 - (a) within the definition given in section 4(1) of this Act, and
 - (b) an agreement between the United Kingdom and one or more partners that includes components that facilitate the trade of goods, services or intellectual property.”

Member’s explanatory statement

The new Clause ensures parliamentary approval is required of the Government’s negotiating objectives prior to negotiations commencing towards a free trade agreement; and requires parliamentary approval of free trade agreements before the UK becomes a signatory to any agreements.

Insert the following new Clause –

“Report on proposed free trade agreement

- (1) This section applies (subject to subsection (2)) where the United Kingdom has authenticated a free trade agreement (“the proposed agreement”), if –
 - (a) the other party (or each other party) and the European Union were signatories to a free trade agreement immediately before exit day, or
 - (b) where the proposed agreement was authenticated by the United Kingdom before exit day, the other party (or each other party) and the European Union were signatories to a free trade agreement on the day the proposed agreement was authenticated by the United Kingdom.
- (2) This section applies only if the proposed agreement is not binding on the United Kingdom as a matter of international law unless it is ratified by the United Kingdom.
- (3) Before the United Kingdom ratifies the proposed agreement, a Minister of the Crown must lay before Parliament a report which gives details of, and explains the reasons for, any significant differences between –
 - (a) the trade-related provisions of the proposed agreement, and
 - (b) the trade-related provisions of the existing free trade agreement.
- (4) Subsection (3) does not apply if a report in relation to the proposed agreement has been laid before Parliament under section (*Report to be laid with regulations under section 2(1)*)(2).
- (5) The duty imposed by subsection (3) applies only at a time when regulations may be made under section 2(1) (see section 2(7)).
- (6) In this section a reference to authenticating a free trade agreement is a reference to doing an act which establishes the text of the agreement as authentic and definitive as a matter of international law.
- (7) In this section –

“the existing free trade agreement” means the free trade agreement referred to in subsection (1)(a) or (b);

the “trade-related provisions” of a free trade agreement are the provisions of the agreement that mainly relate to trade.”

Member’s explanatory statement

This new Clause reinserts a Government amendment made to the Trade Bill in 2018 and requires a Minister to lay a report before Parliament before the UK ratifies a new free trade agreement with a country that (before exit day) had a free trade agreement with the EU. The report must explain any significant differences between the proposed new agreement and the existing agreement with the EU.

Insert the following new Clause –

“Reporting requirement not to apply in exceptional cases

- (1) Section (*Report on proposed free trade agreement*) does not apply to a free trade agreement if a Minister of the Crown is of the opinion that, exceptionally, the agreement needs to be ratified without laying before Parliament a report which meets the requirements of subsection (3) of that section.

After Clause 2 - continued

- (2) If a Minister determines that a free trade agreement is to be ratified without laying before Parliament a report which meets the requirements of section (*Report on proposed free trade agreement*)(3), the Minister must, as soon as practicable after the agreement is ratified, lay before Parliament –
- (a) a report which meets those requirements, and
 - (b) a statement indicating that the Minister is of the opinion mentioned in subsection (1) and explaining why.”

Member’s explanatory statement

This new Clause provides that the reporting requirement under section [Report on proposed free trade agreement] would not apply if a Minister takes the view that, exceptionally, the agreement should be ratified without the reporting requirement being met.

Insert the following new Clause –

“Report to be laid with regulations under section 2(1)

- (1) This section applies where a Minister of the Crown proposes to make regulations under section 2(1) for the purpose of implementing a free trade agreement to which the United Kingdom and another signatory (or other signatories) are signatories.
- (2) A draft of the statutory instrument containing the regulations may not be laid before Parliament unless, at least 10 Commons sitting days before the draft is laid, a Minister of the Crown has laid before Parliament a report which gives details of, and explains the reasons for, any significant differences between –
 - (a) the trade-related provisions of the free trade agreement to which the United Kingdom and the other signatory (or other signatories) are signatories, and
 - (b) the trade-related provisions of the existing free trade agreement.
- (3) Subsection (2) does not apply if, at least 10 Commons sitting days before a draft of the statutory instrument containing the regulations is laid, a report in relation to the agreement has been laid before Parliament under section (*Report on proposed free trade agreement*)(3).
- (4) In this section –

“Commons sitting day” means a day on which the House of Commons begins to sit;

“the existing free trade agreement” means the free trade agreement to which the European Union and the other signatory (or other signatories) were signatories immediately before exit day;

the “trade-related provisions” of a free trade agreement are the provisions of the agreement that mainly relate to trade.”

Member’s explanatory statement

This new Clause reinserts a Government amendment made to the Trade Bill in 2018 and requires a Minister to lay a report before Parliament at least 10 Commons sitting days before regulations implementing a new free trade agreement are laid in draft under Clause 2(1). The report is required to explain any significant differences between the new agreement and the existing agreement with the EU.

LORD PURVIS OF TWEED
BARONESS SHEEHAN

Insert the following new Clause—

“Conditions for trade deals: Sustainable Development Goals

- (1) Regulations under section 2(1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with, and are consistent with, the provisions of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015.
- (2) Any future international trade agreement not implemented under section 2 shall only be eligible for signature or ratification by the United Kingdom if the provisions of that international trade agreement do not conflict with, and are consistent with, the provisions of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015.
- (3) Within 12 months of making regulations under section 2(1) or ratifying a future trade agreement, a Minister of the Crown must lay before Parliament a report assessing how those regulations or trade agreement is making a positive impact towards the implementation of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015.”

Member’s explanatory statement

The new Clause ensures that trade agreements cannot be implemented, signed or ratified unless they are consistent with the provisions of the Sustainable Development Goals.

LORD PURVIS OF TWEED
LORD OATES

Insert the following new Clause—

“Conditions for trade deals: environmental obligations

- (1) Regulations under section 2(1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with, and are consistent with, the United Kingdom’s environmental obligations in international law.
- (2) Any future international trade agreement not implemented under section 2 shall only be eligible for signature or ratification by the United Kingdom if the provisions of that international trade agreement do not conflict with, and are consistent with, the United Kingdom’s environmental obligations in international law.
- (3) Within 12 months of making regulations under section 2(1) or ratifying a future trade agreement, a Minister of the Crown must lay before Parliament a report assessing the impact of regulations or trade agreement on the United Kingdom’s environmental obligations under international law.
- (4) Under subsections (1) and (2) the United Kingdom’s environmental obligations under international law include, but are not limited to—
 - (a) the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 and Paris Agreement done at Paris on 12 December 2015;

After Clause 2 - continued

- (b) the Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES);
- (c) the United Nations Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992, including the Cartagena Protocol on Biosafety and its other Protocols;
- (d) the United Nations Convention on the Law of the Sea 1982;
- (e) the Aarhus Convention 1998;
- (f) the United Nations Economic Commission for Europe Convention on Long-Range Transboundary Air Pollution 1979;
- (g) the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) Convention 1992; and
- (h) the Basel Convention 1992.”

Member’s explanatory statement

The new Clause ensures that trade agreements cannot be implemented, signed or ratified unless they are consistent with the UK’s environmental obligations under international law.

LORD PURVIS OF TWEED

LORD FOX

Insert the following new Clause –

“Processes for making free trade agreements

- (1) Within three months of the passing of this Act, the Secretary of State must review the Command Paper Processes for Making Free Trade Agreements After the United Kingdom Has Left the European Union (CP 63) and lay a new Command Paper before Parliament.
- (2) The Command Paper in subsection (1) must include –
 - (a) the role of Parliament in free trade negotiations;
 - (b) the role of devolved administrations and legislatures;
 - (c) transparency and public consultation;
 - (d) the security and confidentiality of ministerial communications in trade negotiations;
 - (e) the operation and membership of the Board of Trade.
- (3) The Command Paper in subsection (1) must be reviewed and laid before Parliament following each General Election.”

Member’s explanatory statement

The new Clause requires the Government’s Command Paper “Processes for Making Free Trade Agreements After the United Kingdom Has Left the European Union” to be reviewed within 3 months of the Act passing, and thereafter in every Parliament.

LORD PURVIS OF TWEED
BARONESS SUTTIE

Insert the following new Clause—

“Free trade agreements: impact assessment

- (1) Before making regulations under section 2(1) an appropriate authority must produce an impact assessment of—
 - (a) any costs to businesses arising from any additional regulatory requirements in connection with exporting goods and services from the United Kingdom in the course of a trade, business or profession; and
 - (b) any additional costs to businesses arising from exporting goods and services to Northern Ireland in the course of a trade, business or profession.
- (2) Prior to the ratification of any future international trade agreement not implemented under section 2, an appropriate authority must produce an impact assessment of—
 - (a) any costs to businesses arising from any additional regulatory requirements in connection with exporting goods and services from the United Kingdom in the course of a trade, business or profession; and
 - (b) any additional costs to businesses arising from exporting goods and services to Northern Ireland in the course of a trade, business or profession.”

Member’s explanatory statement

The new Clause requires an impact assessment is made of any additional costs to businesses arising from exporting goods and services from the United Kingdom, and within the UK’s internal market.

LORD PURVIS OF TWEED
BARONESS KRAMER

Insert the following new Clause—

“Multilateral investment tribunal

- (1) The United Kingdom may only become a signatory to an international trade agreement if the condition in subsection (3) is satisfied.
- (2) The Secretary of State may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the condition in subsection (3) is satisfied.
- (3) The condition under this subsection is that an international trade agreement must include a commitment by all parties to the agreement to pursue with other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes.”

Member’s explanatory statement

This new Clause would ensure that a multilateral investment process would be used to adjudicate on investor disputes.

Insert the following new Clause—

“Involvement of judicial systems in trade disputes

- (1) The United Kingdom may only become a signatory to an international trade agreement if the condition in subsection (3) is satisfied.
- (2) The Secretary of State may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the condition in subsection (3) is satisfied.
- (3) The condition in this subsection is that legal proceedings brought against the United Kingdom under investment protection provisions included in an international trade agreement must be heard by the courts and tribunals system of the United Kingdom.”

Member’s explanatory statement

This new Clause would provide protection for UK firms, public bodies and the Government in the event of proceedings under investment protection provisions such as the Investor-State Dispute Scheme (ISDS).

Insert the following new Clause—

“Human rights and equalities impact assessments

- (1) Before laying a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010, the Secretary of State must lay before Parliament an impact assessment taking account of short- and long-term human rights and equalities impacts of that agreement on different sectors.
- (2) The Secretary of State must lay before Parliament reviews of each international trade agreement which has come into effect from January 2021.
- (3) A review under subsection (2) must include an assessment of short- and long-term human rights and equalities impacts on different sectors.
- (4) Reviews under subsection (2) must be laid within two years of the day on which the agreement to which they relate comes into effect, and at intervals of no more than two years thereafter.”

Member’s explanatory statement

This new Clause would ensure that HMG has a duty to commit to undertaking human rights and equalities impact assessments of all trade deals before and after implementation, taking account of short- and long-term impacts across different sectors.

LORD FOX
LORD PURVIS OF TWEED
THE EARL OF CLANCARTY

Insert the following new Clause—

“Trade agreement with the EU: mobility framework

For the purposes of facilitating the continuation of trade with the European Union, the Secretary of State must take all necessary steps to secure a mobility framework with the European Union that enables all UK and EU citizens to exercise the same reciprocal rights to work, live and study for the purpose of the provision of trade in goods or services.”

Member's explanatory statement

The new Clause places an obligation on the Secretary of State to take all necessary steps to secure a mobility framework with the European Union.

LORD STEVENSON OF BALMACARA

Insert the following new Clause –

“Post-ratification report

- (1) This section applies where –
 - (a) the United Kingdom has ratified a free trade agreement, and
 - (b) the other party (or each other party) and the European Union were signatories to a free trade agreement immediately before exit day.
- (2) Before the end of the period of five years beginning with the date of ratification, a Minister of the Crown must publish a report giving the Minister's assessment of the impact of the agreement on trade between the United Kingdom and the other party (or each other party) to the agreement.”

LORD BASSAM OF BRIGHTON

Insert the following new Clause –

“UK participation in EU and EEA organisations

- (1) The Secretary of State must seek to negotiate an international trade agreement with the EU which will enable the United Kingdom to continue, after exit day, to co-operate closely with the bodies listed in subsection (2).
- (2) The bodies are –
 - (a) the European Medicines Agency;
 - (b) the European Chemicals Agency;
 - (c) the European Aviation Safety Agency;
 - (d) the European Maritime Safety Agency;
 - (e) the European Network of Transmission System Operators for Electricity;
 - (g) the European Network of Transmission System Operators for Gas.”

LORD LENNIE

Insert the following new Clause –

“Statement on equalities legislation

- (1) This section applies where a Minister of the Crown proposes to make regulations under section 2(1).
- (2) Before a draft of the statutory instrument containing the regulations is laid before either House of Parliament, the Minister must make a statement –
 - (a) as to whether the statutory instrument would, if made, modify any provision of equalities legislation, and
 - (b) if it would, explaining what the effect of each such modification would be.
- (3) If the Minister fails to make a statement as required by subsection (2), the Minister must make a statement explaining why.

After Clause 2 - continued

- (4) A statement under this section must be made in writing and published in such manner as the Minister making it considers appropriate.
- (5) In this section, “equalities legislation” means the Equality Act 2006, the Equality Act 2010 and any subordinate legislation made under either of those Acts.”

LORD STEVENSON OF BALMACARA

Insert the following new Clause—

“Role of Joint Ministerial Committee

- (1) The Joint Ministerial Committee is to be a forum—
 - (a) for discussing—
 - (i) the terms upon which the United Kingdom is to commence negotiations with respect to any international trade agreement;
 - (ii) proposals to amend retained EU law for the purposes of regulations made under section 1 or section 2;
 - (b) for seeking a consensus on the matters set out in subsection (1)(a) between Her Majesty’s Government and the other members of the Joint Ministerial Committee.
- (2) Before Her Majesty’s Government concludes an international trade agreement, the Secretary of State must produce a document for consideration by the Joint Ministerial Committee setting out—
 - (a) Her Majesty’s Government’s objectives and strategy in negotiating and concluding an international trade agreement;
 - (b) the steps Her Majesty’s Government intends to take to keep the Joint Ministerial Committee informed of progress in reaching an international trade agreement;
 - (c) the steps Her Majesty’s Government intends to take to consult each member of the Joint Ministerial Committee before entering into an international trade agreement and for taking the views of each member into account.
- (3) Before concluding an international trade agreement the Secretary of State must produce a document setting out the terms of the proposed agreement for consideration by the Joint Ministerial Committee.
- (4) In this section, “the Joint Ministerial Committee” means the body set up in accordance with Supplementary Agreement A of the Memorandum of Understanding on Devolution, between Her Majesty’s Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive Committee.”

Member’s explanatory statement

This new Clause would put on the face of the Bill a joint ministerial committee, and give it powers to discuss international trade issues with the devolved Administrations.

Insert the following new Clause—

“International trade agreements: health or care services

- (1) Regulations under section 2(1) may make provision for the purpose of implementing an international trade agreement only if the conditions in subsections (2) and (3) are met in relation to the application of that agreement in any part of the United Kingdom.
- (2) The condition in this subsection is that no provision of that international trade agreement in any way undermines or restricts the ability of an appropriate authority—
 - (a) to provide a comprehensive publicly funded health service free at the point of delivery,
 - (b) to protect the employment rights or terms and conditions of employment for public sector employees and those working in publicly funded health or care sectors,
 - (c) to regulate and maintain the quality and safety of health or care services,
 - (d) to regulate and maintain the quality and safety of medicines and medical devices,
 - (e) to regulate and control the pricing and reimbursement systems for the purchase of medicines or medical devices, or
 - (f) to regulate and maintain the level of protection afforded in relation to patient data, public health data and publicly provided social care data relating to UK citizens.
- (3) The condition in this subsection is that the agreement—
 - (a) explicitly excludes application of any provision within that agreement to publicly funded health or care services,
 - (b) explicitly excludes provision for any Investor-State Dispute Settlement (ISDS) clause that provides, or is related to, the delivery of public services, health care, care or public health,
 - (c) explicitly excludes the use of any negative listing, standstill or ratchet clause that provides, or is related to, the delivery of public services, health care, care or public health,
 - (d) contains explicit recognition that an appropriate authority (within the meaning of section 4) has the right to enact policies, legislation and regulation which protect and promote health, public health, social care and public safety in health or care services, and
 - (e) prohibits the sale of patient data, public health data and publicly provided social care data.
- (4) For the purposes of this section—

“negative listing” means a listing only of exceptions, exclusions or limits to commitments made by parties to the agreement;

“ratchet” in relation to any provision in an agreement means any provision whereby a party, if (after the agreement has been ratified) it has unilaterally removed a barrier in an area where it had made a commitment before the agreement was ratified, may not reintroduce that barrier; and

After Clause 2 - continued

“standstill” in relation to any provision in an agreement means any provision by which parties list barriers which are in force at the time that they sign the agreement and undertake not to introduce any new barriers.”

Member’s explanatory statement

This new Clause would aim to protect the NHS and publicly funded health and care services in other parts of the UK from any form of control from outside the UK.

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) The provision in this subsection is that, subject to subsection (3), 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.
- (3) If in the view of the Secretary of State there is a substantive case for including an investor state dispute settlement chapter in a future free trade agreement, regulations to that effect must be laid before both Houses of Parliament in advance of the approval of the mandate for that free trade agreement; and such regulations must be approved by a resolution of each House of Parliament before the mandate may be approved.”

Insert the following new Clause—

“Review of free trade agreements

- (1) The Secretary of State must lay before Parliament a review of the operation and impacts of each free trade agreement to which this Act applies.
- (2) Each such review shall be laid before Parliament no later than five years from the day on which the agreement comes into force.
- (3) A further review of the operation of each agreement shall be laid no later than five years after the day on which the previous such review was laid before Parliament.
- (4) Each review shall be conducted by a credible body independent of government and shall include both qualitative and quantitative assessments of the impacts of the agreement, including as a minimum —
 - (a) the economic impacts on individual sectors of the economy, including but not restricted to —
 - (i) the impacts on the quantity and quality of employment,
 - (ii) the various regional impacts across the different parts of the UK,
 - (iii) the impacts on small and medium-sized enterprises, and
 - (iv) the impacts on vulnerable economic groups;
 - (b) the social impacts, including but not restricted to —

After Clause 2 - continued

- (i) the impacts on public services, wages, labour standards, social dialogue, health and safety at work, public health, food safety, social protection, consumer protection and information, and
 - (ii) the Government's duties under the Equality Act 2010;
 - (c) the impacts on human rights, including but not restricted to –
 - (i) workers' rights,
 - (ii) women's rights,
 - (iii) cultural rights and
 - (iv) all UK obligations under international human rights law;
 - (d) the impacts on the environment, including but not restricted to –
 - (i) the need to protect and preserve the oceans,
 - (ii) biodiversity,
 - (iii) the rural environment and air quality, and
 - (iv) the need to meet the UK's international obligations to combat climate change;
 - (e) the impact of any investor-state dispute settlement which forms part of the agreement;
 - (f) the impacts on animal welfare, including but not restricted to the impacts on animal welfare in food production, both as it relates to food produced in the UK and as it relates to food imported into the UK from other countries; and
 - (g) the economic, social, cultural, food security and environmental interests of those countries considered to be developing countries for the purposes of section 10 of the Taxation (Cross-border Trade) Act 2018, as defined in Schedule 3 to that Act and as amended by regulations.
- (5) The elements of the review to be undertaken under subsection (4)(g) must be disaggregated so as to capture the full range of impacts on different groups of developing countries, and must include both direct and indirect impacts, such as loss of market share through trade diversion or preference erosion."

Member's explanatory statement

This new Clause would introduce a review of the functioning of each FTA to which the United Kingdom is a signatory to be brought forward after five years and again after a further five.

After Clause 6

LORD BASSAM OF BRIGHTON

Insert the following new Clause –

“Board of Trade Appointments

Appointments to the Board of Trade may only be made –

- (a) following the recruitment process set out in the Governance Code for Public Appointments,
- (b) under the supervision of the Commissioner for Public Appointments, and
- (c) after appointees have appeared in front of the Select Committee for International Trade of the House of Commons.”

Clause 7

LORD BASSAM OF BRIGHTON

Page 5, line 9, leave out subsection (4)

After Clause 13LORD PURVIS OF TWEED
BARONESS SHEEHAN

Insert the following new Clause—

“Report on impact on developing countries

- (1) Regulations under section 13(2) may not be made until a Minister of the Crown has laid before Parliament a report—
 - (a) assessing the economic and development impact of each free trade agreement to which the United Kingdom is party with a Least Developed Country or a Lower Middle Income Country and Territory; and
 - (b) containing proposals on how Her Majesty’s Government will assist the Least Developed Country or Lower Middle Income Country and Territory to implement any free trade agreements to which the United Kingdom and those countries are party.
- (2) A Minister of the Crown must lay further reports before Parliament every twelve months in the terms under subsection (1).
- (3) Subsequent reports under subsection (2) must give an assessment of the impact of any regulations made under section 10 of the Taxation (Cross-border Trade) Act 2018 on those countries to which EU Regulation 978/2012 applies (the “GPS Regulation”).”

Member’s explanatory statement

The new Clause requires a Minister of the Crown to report annually on the impact of trade agreements to which the UK is party on the world’s least developed countries.

LORD STEVENSON OF BALMACARA

Insert the following new Clause—

“Conditions of commencement

The provisions in Parts 1 to 3 may only come into force if—

- (a) a trade agreement with the European Union has been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown, or
- (b) the House of Commons has passed a motion “That this House approves the implementation period ending without a trade agreement between the United Kingdom and the European Union”.”

Schedule 2

LORD LENNIE

Page 13, line 26, leave out from “section 1(1)” to end of line 27 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.”

Member’s explanatory statement

This amendment would specify an affirmative resolution procedure for regulations under Clause 1(1) (Regulations relating to the UK’s membership of the GPA).

Page 13, line 27, at end insert –

- “() A statutory instrument containing regulations under section 1(1)(b)(ii), may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Page 13, line 27, at end insert –

- “() A statutory instrument containing regulations under section 1(1) which make changes to coverage schedules in the Agreement on Government Procurement may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

LORD STEVENSON OF BALMACARA

Page 15, line 25, at end insert –

- “4A(1) A statutory instrument containing regulations of a Minister of the Crown acting alone under section 2(1) in respect of an international trade agreement which does not meet the criteria under section 2(3) or section 2(4) may not be made except in accordance with the steps in sub-paragraphs (2) to (5).
- (2) The Minister must lay before Parliament –
- (a) a draft of the regulations, and
 - (b) a document which explains why the Secretary of State believes that regulations should be made in the terms of the draft regulations.
- (3) The Minister may make regulations in the terms of the draft regulations laid under sub-paragraph (2) if –
- (a) after the expiry of a period of 21 sitting days after the draft regulations are laid, no committee of either House of Parliament has recommended that the regulations should not be made, and
 - (b) after the expiry of a period of 60 sitting days after the draft regulations are laid, the draft regulations are approved by a resolution of each House of Parliament.
- (4) If a committee of either House of Parliament recommends that the regulations should not be made, the Secretary of State may –
- (a) lay before Parliament revised draft regulations, and
 - (b) after the expiry of a period of 40 sitting days after the revised draft regulations are laid, make a motion for a resolution in each House of Parliament for approval of the revised draft regulations.

Schedule 2 - continued

- (5) If a motion under sub-paragraph (4)(b) is approved by a resolution of each House of Parliament, the Secretary of State may make the regulations.”

Member’s explanatory statement

This amendment would establish a form of super-affirmative procedure for scrutiny of regulations implementing all trade agreements covered by the bill. The procedure would apply to agreements other than EU rollover trade agreements if amendments extending the application of the bill were agreed to.

Schedule 4

LORD STEVENSON OF BALMACARA

Page 17, line 25, at end insert –

- “() The Secretary of State must ensure that the non-executive members include a representative of –
- (a) producers,
 - (b) trade unions,
 - (c) consumers, and
 - (d) each of the United Kingdom devolved administrations.”

Member’s explanatory statement

This amendment would ensure that the Trade Remedies Authority includes, among its non-executive members, representatives of stakeholder bodies potentially affected by its recommendations.

Page 17, line 27, leave out paragraph 3 and insert –

- “3 No person may be appointed as a non-executive member of the TRA under paragraph 2(1)(b) unless –
- (a) the Secretary of State has first consulted the Chair of the TRA on the proposed appointment, and
 - (b) the International Trade Committee of the House of Commons has consented to the appointment.”

Member’s explanatory statement

This amendment would establish a procedure for appointing non-executive members of the Trade Remedies Authority other than the Chair.

Trade Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

9 September 2020
