

Trade Bill

AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 2

LORD COLLINS OF Highbury
LORD PURVIS OF Tweed
LORD ALTON OF LIVERPOOL

This amendment replaces an amendment tabled in the name of Lord Collins of Highbury, published on daily sheet 128 – R(c)

Insert the following new Clause –

“Free trade agreements: determination on compliance with international obligations and state actions

- (1) Before publishing the objectives and any initial impact assessments of a proposed trade agreement to be implemented under the Constitutional Reform and Governance Act 2010, the Government must conduct a risk assessment which considers whether the agreement would comply with the United Kingdom’s international treaties and other obligations, with particular reference to human rights, and examines serious violations committed, or alleged to have been committed by the state or states who will be signatory to the proposed trade agreement.
- (2) The risk assessment under subsection (1) must be presented to the relevant Committees in both Houses of Parliament.
- (3) Before a trade agreement can be laid before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 (“the CRAG procedure”), Ministers of the Crown must determine whether the trade agreement, if ratified, would be compliant with the United Kingdom’s international obligations, with particular reference to human rights, and whether serious violations have been committed by the state or states of the signed trade agreement. Such a determination must be published and made available to the relevant Committees at the same time as they are requested to consider a signed trade agreement.

After Clause 2 - continued

- (4) The Government must present an annual report to the relevant Committees in both Houses of Parliament on the continuing compliance of trade agreements with the United Kingdom's international obligations, with particular reference to human rights, and which examines serious violations committed or alleged to have been committed by the state or states who are signatory to the trade agreement since it was signed. If breaches of the United Kingdom's international obligations or serious violations have taken place, Ministers of the Crown must make a determination on the continuation of a trade agreement.
- (5) In this section, "serious violations" include an activity by a state which would violate an individual's—
 - (a) right to life, including but not limited to genocide;
 - (b) right not to be subjected to torture or cruel inhuman or degrading treatment or punishment;
 - (c) right to be free from slavery and not to be held in servitude or required to perform forced or compulsory labour; or
 - (d) other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.
- (6) In this section, "trade agreement" refers to any agreement between the United Kingdom and one or more partners that includes components that facilitate the trade of goods, services or intellectual property, including but not limited to—
 - (a) free trade agreements as defined by section 4;
 - (b) Interim Association Agreements and Association Agreements;
 - (c) Economic Partnership Agreements;
 - (d) Interim Partnership Agreements;
 - (e) Stabilisation and Association Agreements;
 - (f) Global Agreements;
 - (g) Economic Area Agreements;
 - (h) Cooperation Agreements;
 - (i) Comprehensive Economic and Trade Agreements;
 - (j) Association Agreements with strong trade component;
 - (k) Transatlantic Trade and Investment Partnerships; and
 - (l) Investment Protection Agreements."

After Clause 2 - continued

LORD ALTON OF LIVERPOOL
BARONESS KENNEDY OF THE SHAWES
LORD FORSYTH OF DRUMLEAN
BARONESS FALKNER OF MARGRAVINE

Insert the following new Clause—

“Agreements with states accused of committing genocide

- (1) International bilateral trade agreements are revoked if the High Court of England and Wales makes a preliminary determination that they should be revoked on the ground that another signatory to the relevant agreement represents a state which has committed genocide under Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, following an application to revoke an international bilateral trade agreement on this ground from a person or group of persons belonging to a national, ethnic, racial or religious group, or an organisation representing such a group, which has been the subject of that genocide.
- (2) This section applies to genocides which occur after this section comes into force, and to those considered by the High Court to have been ongoing at the time of its coming into force.”

LORD BLENCATHRA
LORD ALTON OF LIVERPOOL

Insert the following new Clause—

“Agreements with states accused of committing human rights abuses

- (1) International trade agreements are revoked if the High Court of England and Wales makes a preliminary determination that they should be revoked on the ground that another signatory to the relevant agreement represents a state which has committed any abuses of the human rights listed in Schedule (Human rights), following an application to revoke an international trade agreement on this ground from a person or group of persons or an organisation which has reasonable grounds for believing that such human rights abuses took place.
- (2) This section applies to human rights abuses which occur after this section comes into force, and to those considered by the High Court to have been ongoing at the time of its coming into force.
- (3) The Minister may by regulations amend the list of human rights abuses listed in Schedule (*Human rights*).
- (4) Regulations under this section are subject to the affirmative resolution procedure.”

After Clause 2 - continued

BARONESS THORNTON
 LORD FREYBERG
 LORD PATEL
 LORD FOX

Insert the following new Clause—

“International trade agreements: health, care or publicly funded data processing services and IT systems in connection with the provision of health and care

- (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), (3) and (4) 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,
 - (f) to provide health data processing services and IT systems for commissioners, analysts and clinicians in relation to patient data, public health data and publicly provided social care data relating to UK citizens, or
 - (g) 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 provision for any Investor-State Dispute Settlement (ISDS) clause regarding data access and processing in relation to patient and public health data for the purposes of research, planning and innovation,
 - (d) 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,

After Clause 2 - continued

- (e) 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
 - (f) prohibits the sale of patient data, public health data and publicly provided social care data.
- (4) The condition in this subsection is that the agreement explicitly allows, in the case of any traded algorithm or data-driven technology which could be deployed as a medical device, for the methodology for processing sensitive data to be independently audited or scrutinised for potential harm by an appropriate regulatory body in the United Kingdom where it relates to trade in medical algorithms, technology or devices.
- (5) 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
- “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, health, care or publicly funded data processing services and IT systems in connection with the provision of health and care in other parts of the UK from any form of control from outside the UK through trade agreements.

Before Schedule 1

LORD BLENCATHRA
LORD ALTON OF LIVERPOOL

Insert the following new Schedule –

“HUMAN RIGHTS

The right to life

Freedom from torture

Freedom from slavery

The right to liberty

The right to a fair trial

The right not to be punished for something that was not against the law at the time

The right to respect for family and private life

Freedom of thought, conscience and religion

Freedom of expression

Before Schedule 1 - *continued*

Freedom of assembly

The right to marry and start a family

The right not to be discriminated against in respect of these rights

The right to protection of property

The right to education

The right to participate in free elections

The abolition of the death penalty”

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25 November 2020
