

# Trade Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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**After Clause 2**

BARONESS THORNTON  
LORD FREYBERG  
LORD PATEL  
LORD FOX

*This amendment replaces an amendment tabled in the name of Baroness Thornton, published on daily sheet 128 – R(d)*

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

**After Clause 2 - continued**

- (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 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,
  - (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, except where all proceeds are explicitly ring-fenced for reinvestment in the UK’s health and care system.
- (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.*

LORD FOX  
LORD PURVIS OF TWEED  
BARONESS BULL  
THE EARL OF CLANCARTY

Insert the following new Clause—

**“Mobility framework with the European Union**

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, 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 OATES  
LORD PURVIS OF TWEED

Insert the following new Clause—

**“Conditions for trade agreements: climate change obligations**

- (1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsections (3) and (4) are 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 conditions in subsections (3) and (4) are satisfied.
- (3) The condition under this subsection is that a Minister of the Crown has made a statement to Parliament that the agreement is compliant with—
  - (a) the Climate Change Act 2008 as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (S.I. 2019/1056); and
  - (b) the United Kingdom’s international obligations to tackle climate change, including but not limited to, the agreement adopted under the United Nations Framework Convention on Climate Change in Paris on 12 December 2015.
- (4) The condition under this subsection is that—
  - (a) a Minister of the Crown has made a statement to Parliament confirming that the agreement will not give rise to a net increase in greenhouse gas emissions; or
  - (b) a Minister of the Crown has laid before Parliament a detailed schedule of measures to mitigate in full any net increase in greenhouse gas emissions arising from the agreement.”

***Member’s explanatory statement***

*The new Clause ensures that trade agreements cannot be signed or approved if they are consistent with the UK’s climate change obligations and that the Secretary of State has made statements to Parliament confirming that the agreement will not increase greenhouse gas emissions.*

BARONESS KRAMER  
LORD PURVIS OF TWEED

Insert the following new Clause—

**“Investor-state dispute settlement**

- (1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsections (3) and (4) are 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 conditions in subsections (3) and (4) are 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.
- (4) The condition under this subsection is that—
  - (a) 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, and
  - (b) the provision in paragraph (a) ends for any international trade agreement when a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes is established under that trade agreement.”

***Member’s explanatory statement***

*This new Clause would ensure that there is a commitment by all parties to a trade agreement to pursue the establishment of a multilateral investment process to adjudicate on investor disputes.*

LORD PURVIS OF TWEED

Insert the following new Clause—

**“Prohibition of tied aid in trade and procurement**

- (1) The United Kingdom may only become a signatory to an international trade agreement with a Least Developed Country or a Lower Middle Income Country and Territory if the conditions in subsection (3) are satisfied.
- (2) The Secretary of State may not lay a copy of an international trade agreement with a Least Developed Country or a Lower Middle Income Country and Territory before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the conditions in subsection (3) are satisfied.
- (3) The conditions are –
  - (a) the United Kingdom commits in the agreement to complying with the Recommendation on Untying Official Development Assistance as adopted by the OECD Development Assistance Committee (DAC) on 25 April 2001, and as amended;

**After Clause 2 - continued**

- (b) no provision of the agreement is subject to a condition restricting the state the United Kingdom has made the agreement with from receiving aid other than those as agreed under the principles of the Recommendation; and
  - (c) the United Kingdom, so far as reasonably practicable, has committed that there will be no significant impediment in the purchasing process of goods or services from the United Kingdom which would have the effect of a narrower restriction than that on the states from which goods or services will be purchased by the United Kingdom using aid.
- (4) If the conditions in subsection (3) are not included in an international trade agreement made before this Act comes into effect, no regulations can be made under section 2(1) to implement the agreement.
- (5) The Secretary of State must include in the annual report required under section 1 of the International Development (Reporting and Transparency) Act 2006 (annual reports: general) a statement on how the UK has met its commitments under subsection (3).
- (6) The Secretary of State may not make regulations under section 1 which are inconsistent with the OECD DAC Good Procurement Practices for Official Development Assistance.
- (7) The requirements relating to trade and aid on the Secretary of State in this section are in addition to the duties as required in the International Development Act 2002, the International Development (Reporting and Transparency) Act 2006, the International Development (Gender Equality) Act 2014, and the International Development (Official Development Assistance Target) Act 2015.
- (8) In this section, the definition of aid includes support for –
  - (a) balance of payments and structural adjustment support;
  - (b) debt forgiveness;
  - (c) sector and multi- sector programme assistance;
  - (d) investment project aid;
  - (e) import and commodity support;
  - (f) commercial services contracts; and
  - (g) overseas development assistance to Non-Governmental Organisations for procurement related activities.”

*After Clause 2 - continued*

LORD HAIN  
 BARONESS RITCHIE OF DOWNPATRICK  
 BARONESS SUTTIE  
 BARONESS ALTMANN

Insert the following new Clause—

**“Trade agreement with the EU: compliance with the Protocol on Ireland/Northern Ireland**

Any trade agreement between the United Kingdom and the European Union that is subject to sections 20 to 25 of the Constitutional Reform and Governance Act 2010 is not to be ratified unless it fully complies with the requirements of the Protocol on Ireland/Northern Ireland as part of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as signed and ratified by Her Majesty’s Government.”

Insert the following new Clause—

**“Continuation of North-South trade and prevention of customs arrangements at borders**

- (1) An international trade agreement between the United Kingdom and the European Union may not be ratified under sections 20 to 25 of the Constitutional Reform and Governance Act 2010 unless the agreement—
  - (a) is compatible with the terms of the Northern Ireland Act 1998;
  - (b) is compliant with the requirements of the Protocol on Ireland/Northern Ireland as part of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community; and
  - (c) does not—
    - (i) negatively affect any form of North-South trade in goods or services or the operation of the relevant North-South implementation bodies, or
    - (ii) create or facilitate customs arrangements between Northern Ireland and the Republic of Ireland after IP completion day which feature—
      - (a) physical infrastructure related to customs checks,
      - (b) a requirement for customs or regulatory compliance checks,
      - (c) random checks on goods vehicles, or
      - (d) any other checks and controls related to trade, that did not exist before IP completion day and which are not subject to an agreement between Her Majesty’s Government and the government of Ireland.
- (2) In this section “IP completion day” has the meaning set out in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

*After Clause 2 - continued*

## LORD STEVENSON OF BALMACARA

Insert the following new Clause –

**“Investor-state dispute settlement mechanisms**

- (1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in either of subsection (3) or (4), and in subsection (5) are met.
- (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 conditions in either of subsection (3) or (4), and in subsection (5) are met.
- (3) The condition in this subsection is that the international trade agreement does not contain any form of investor-state dispute settlement mechanism applicable to any part of the United Kingdom in relation to a claim brought by a foreign investor against a United Kingdom public authority except to the extent that –
  - (a) the laws of the United Kingdom administered in the courts and tribunals of the United Kingdom so provide, and
  - (b) a person (whether or not an investor) domiciled in the United Kingdom has equal protection under those laws and equal access to redress for any such claim in those courts and tribunals.
- (4) If, in the view of the Secretary of State, there is a substantive case for including an investor-state dispute settlement mechanism which is other than as described in subsection (3) in an international trade agreement, the condition in this subsection is that a Minister of the Crown has moved a motion to that effect in each House of Parliament in advance of the approval of the mandate for that international trade agreement, and the mandate has been approved without amendment by each House of Parliament.
- (5) The condition in this subsection is that the international trade agreement includes 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.
- (6) In subsection (3), “public authority” includes the Crown, Parliament, an appropriate authority as defined in section 4(1), a local authority, and any person who has functions which include functions of a public nature.”

## BARONESS JONES OF MOULSECOOMB

Insert the following new Clause –

**“Ratification of international trade agreements**

- (1) An international trade agreement may not be ratified unless it enables the United Kingdom to require imports to meet standards that are equivalent to the principal standards laid down by primary and subordinate legislation in the United Kingdom regarding food safety, the environment and animal welfare.

**After Clause 2 - continued**

- (2) The condition in subsection (1) does not apply if the international trade agreement is with one or more least developed countries and, in the Secretary of State's opinion, is seeking equivalence on standards which would present an unfair impediment to trade for the country or countries concerned.
- (3) The Secretary of State must by regulations specify which of the standards laid down by legislation in the United Kingdom regarding food safety, the environment and animal welfare are principal standards for the purpose of subsection (1).
- (4) Regulations made under subsection (3) are subject to affirmative resolution procedure.
- (5) In this section "least developed countries" means any country on the United Nations Committee of Development's List of Least Developed Countries, as amended from time to time."

***Member's explanatory statement***

*This new Clause ensures that UK standards regarding food safety, the environment and animal welfare cannot be undermined by imports produced to lower standards.*

BARONESS BENNETT OF MANOR CASTLE

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 are consistent with the achievement of the United Kingdom's climate and environmental commitments.
- (2) Any future international trade agreement not implemented under section 2 is only eligible for signature or ratification by the United Kingdom if the provisions of that international trade agreement are consistent with the achievement of the United Kingdom's climate and environmental commitments.
- (3) An international trade agreement is only eligible for signature or ratification by the United Kingdom once the Secretary of State has laid before Parliament a report that explains whether, or to what extent, the provisions of that international trade agreement, or any other agreements made during the course of negotiating that international trade agreement, are consistent with –
  - (a) the achievement of the United Kingdom's climate and environmental commitments, and
  - (b) the maintenance of the United Kingdom's levels of statutory protection in relation to –
    - (i) human, animal or plant life or health,
    - (ii) animal welfare, and
    - (iii) the environment.
- (4) 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 the regulations or trade agreement on the United Kingdom's environmental commitments.

*After Clause 2 - continued*

- (5) In this section the “United Kingdom’s climate and environmental commitments” means –
- (a) the target of achieving net zero carbon emissions by 2050;
  - (b) any target set under or for purposes connected with any enactment (including Scottish, Welsh or Northern Irish legislation, and retained EU law) relating to the environment or climate change;
  - (c) any goals and targets contained in an Environmental Improvement Plan, including the 25 Year Environment Plan;
  - (d) any target to which the UK is committed by virtue of being party to a relevant multilateral environmental agreement; and
  - (e) the United Nation’s Sustainable Development Goals.
- (5) In this section “relevant multilateral environmental agreement” means any multilateral or bilateral environmental agreement (and any protocol to that agreement) to which the United Kingdom is a party, including, but not limited to –
- (a) the United Nations Framework Convention on Climate Change 1992 and the Paris Agreement 2015;
  - (b) the Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES);
  - (c) the United Nations Convention on Biological Diversity 1992, including the Cartagena Protocol on Biosafety;
  - (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) 1992; and
  - (h) the Basel Convention 1992.”

LORD GRANTCHESTER  
LORD PURVIS OF TWEED

Insert the following new Clause –

**“Standards affected by international trade agreements**

- (1) The Secretary of State must by regulations made by statutory instrument establish a code of practice setting out how a Minister of the Crown should take steps to maintain standards established by any enactment regarding –
- (a) food,
  - (b) animal welfare,
  - (c) the environment,
  - (d) human rights,
  - (e) welfare, and
  - (f) labour law,

if a proposed international trade agreement is likely to affect such standards.

*After Clause 2 - continued*

- (2) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.
- (3) The code under subsection (1) may provide that a Minister of the Crown ensures as far as possible that a future trade agreement is consistent with United Kingdom levels of statutory protection regarding, among other things—
  - (a) human, animal or plant life or health;
  - (b) animal welfare;
  - (c) the environment;
  - (d) food safety, quality, hygiene and traceability;
  - (e) employment and labour standards; and
  - (f) human rights and equalities, including but not limited to—
    - (i) women’s rights,
    - (ii) child rights, and
    - (iii) the Human Rights Act 1998.
- (4) This is in addition to and does not impact on the provisions in section 42 of the Agriculture Act 2020 (reports relating to free trade agreements).
- (5) Where a Minister of the Crown decides that it is appropriate and necessary to change standards in pursuit of an international trade agreement, a Minister of the Crown must—
  - (a) send a notification of the necessary changes to primary or subordinate legislation to the relevant Committee in each House of Parliament at the earliest opportunity;
  - (b) consult and seek the consent of the devolved authorities; and
  - (c) take steps to ensure that necessary changes to primary or subordinate legislation have completed their parliamentary processes before the final texts of agreed trade agreements, together with full impact assessments which cover the economic impacts and social, environmental, and animal welfare aspects of the agreement, in advance of such agreements being laid in Parliament under section 20 of the Constitutional Reform and Governance Act 2010.
- (6) In this section, “United Kingdom 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.”

*After Clause 2 - continued*

BARONESS KIDRON  
LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES  
LORD SHEIKH

Insert the following new Clause—

**“Protection of children online**

- (1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsection (2) are satisfied.
- (2) International trade agreements must be consistent with—
  - (a) other international treaties to which the United Kingdom is a party, and the domestic law of England and Wales (including any changes to the law after the trade agreement is signed), regarding the protection of children and other vulnerable user groups using the internet;
  - (b) the provisions on data protection for children, as set out in the age appropriate design code under section 123 of the Data Protection Act 2018 (age-appropriate design code) and other provisions of that Act which impact children; and
  - (c) online protections provided for children in the United Kingdom that the Secretary of State considers necessary.
- (3) In this section a “child” means any person under the age of 18.”

LORD STEVENSON OF BALMACARA

Insert the following new Clause—

**“Consent of devolved authorities**

- (1) No international trade agreement may be authenticated by the United Kingdom so far as it contains provision which would be within the devolved competence of the Scottish Ministers (within the meaning given in paragraph 6 of Schedule 1), unless the Scottish Ministers consent.
- (2) No international trade agreement may be authenticated by the United Kingdom so far as it contains provision which would be within the devolved competence of the Welsh Ministers (within the meaning given in paragraph 7 of Schedule 1), unless the Welsh Ministers consent.
- (3) No international trade agreement may be authenticated by the United Kingdom so far as it contains provision which would be within the devolved competence of a Northern Ireland department (within the meaning given in paragraph 8 of Schedule 1), unless a Northern Ireland devolved authority (within the meaning of paragraph 9 of Schedule 1) consents.
- (4) No international trade agreement may be authenticated by the United Kingdom unless a Minister of the Crown has consulted and sought the consent of devolved authorities on the implementation of international trade agreements.
- (5) An international trade agreement may be authenticated by the United Kingdom without the consent of devolved authorities sought under subsection (4) only if—

**After Clause 2 - continued**

- (a) the period of one month beginning with the day on which consent was first sought has elapsed, and
- (b) a Minister of the Crown has made a statement to each House of Parliament explaining why consent has not been obtained.”

**Clause 6**

BARONESS KRAMER  
LORD PURVIS OF TWEED

Page 4, line 16, at end insert –

- “( ) In order to provide the Secretary of State with the advice, support and assistance under subsection (1), the TRA must within six months of its establishment publish a strategy for its engagement with stakeholders, including, but not limited to –
- (a) representatives of climate change and environmental groups,
  - (b) businesses,
  - (c) small businesses,
  - (d) trades unions,
  - (e) consumers, and
  - (f) each of the devolved administrations.”

**After Clause 6**

LORD STEVENSON OF BALMACARA

*As an amendment to the first new Clause after Clause 6 in the name of Lord Grimstone of Boscobel printed on sheet HL Bill 128 – R(g)*

at end insert –

- “(5) The Secretary of State may by regulations made by statutory instrument appoint similar trade committees for other sectors, including, but not limited to –
- (a) automotive, aerospace and marine,
  - (b) British manufactured and consumer goods,
  - (c) telecoms and technology,
  - (d) chemicals,
  - (e) life sciences,
  - (f) creative industries,
  - (g) investment,
  - (h) transport services,
  - (i) professional advisory services, and
  - (j) financial services.
- (6) When appointing members of any of these committees, the Secretary of State must have regard to the desirability of appointing members who represent –
- (a) a trade union, and
  - (b) the Confederation of British Industry,

**After Clause 6 - *continued***

who have knowledge and experience of the devolved areas of the United Kingdom.

- (7) Regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

# Trade Bill

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*1 December 2020*

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