

Trade Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 2

LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE
BARONESS ALTMANN

- 17 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.”
- 18 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

After Clause 2 - continued

- (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).”

LORD STEVENSON OF BALMACARA

19 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.

After Clause 2 - continued

- (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

20 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.
- (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
BARONESS BOYCOTT

21 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.

After Clause 2 - continued

- (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.
- (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;

After Clause 2 - continued

- (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
BARONESS BOYCOTT
BARONESS JONES OF MOULSECOOMB

22 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.
- (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;

After Clause 2 - continued

- (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 before 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.”

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

23 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
BARONESS BENNETT OF MANOR CASTLE

24 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.

After Clause 2 - continued

- (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—
 - (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.”

LORD PURVIS OF TWEED
BARONESS SHEEHAN

25

Insert the following new Clause—

“Implementation of preference rates given unilaterally

- (1) For the purposes of facilitating the continuation of trade with developing countries, the Secretary of State must take necessary steps to meet either the condition in subsection (2) or subsection (3) before the end of the transition period outlined in the UK-EU withdrawal agreement.
- (2) The Secretary of State must extend the Least Developed Countries Framework to include those economies listed in Part 3 of Schedule 3 to the Taxation (Cross-border Trade) Act 2018 and which are a member of a Customs Union in which the majority of countries are Least Developed Countries.
- (3) The Secretary of State must include bananas in the proposed UK's new Enhanced Framework.”

Member's explanatory statement

This would provide a WTO-compatible mechanism to ensure continuity of equivalent levels of market access to developing countries where a continuity deal cannot be agreed, or will not be in place by the end of the transition period and where the conclusion of such agreements may undermine the functioning of their regional customs unions.

LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK
LORD EAMES
LORD CORMACK

26 Insert the following new Clause—

“Northern Ireland: non-discrimination in goods and services

- (1) Any trade agreement between the United Kingdom and any other party that is subject to sections 20 to 25 of the Constitutional Reform and Governance Act 2010 is not to be ratified if anything in the agreement prevents the United Kingdom from ensuring unfettered market access for—
 - (a) goods moving between Northern Ireland and other parts of the United Kingdom's internal market,
 - (b) services provided by a service provider in Northern Ireland to customers in other parts of the United Kingdom, and
 - (c) services provided by a service provider in another part of the United Kingdom to customers in Northern Ireland.
- (2) Regulations under section 2(1) may not impose any tariffs or any requirement of customs procedures for goods originating in Northern Ireland which are entering Great Britain, or discriminate, either directly or in effect, in relation to such goods entering Great Britain as compared to other goods being traded within the United Kingdom.”

BARONESS BOYCOTT
LORD GRANTCHESTER

26A Insert the following new Clause—

“Product standards: labelling

- (1) The Secretary of State must by regulations made by statutory instrument make provision that any relevant food agency must specify that products imported under an international trade agreement meet UK levels of statutory protection for—
 - (a) food safety,
 - (b) quality,
 - (c) hygiene,
 - (d) traceability,
 - (e) human and animal welfare, and
 - (f) the environment,with labelling on the packaging.
- (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.”

Clause 6

BARONESS KRAMER
LORD PURVIS OF TWEED
BARONESS BENNETT OF MANOR CASTLE

27 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.”

BARONESS MCINTOSH OF PICKERING

28 Page 4, line 17, leave out from “assistance” to end of line 18 and insert “may be requested under subsection (1) regarding –”

29 Page 4, line 22, at end insert “, and

- (c) any other matter within the remit or functions of the TRA.”

Member’s explanatory statement

This amendment, together with that to page 4, line 17 in the name of Baroness McIntosh of Pickering, would focus the limits of a request to matters of international trade on which it would be appropriate for the TRA to provide advice.

30 Page 4, line 24, after “TRA” insert “regarding the scope of the request”

Member’s explanatory statement

The amendment would clarify the purpose of the initial consultation before proceeding to a request under clause 6(1).

After Clause 6

LORD GRIMSTONE OF BOSCOBEL

31 Insert the following new Clause –

“PART 2A

THE TRADE AND AGRICULTURE COMMISSION

Trade and Agriculture Commission

- (1) The Secretary of State may appoint members to a committee to be known as the Trade and Agriculture Commission (the “TAC”).
- (2) The TAC’s purpose is to provide advice under section 42 of the Agriculture Act 2020 (reports relating to free trade agreements).

After Clause 6 - continued

- (3) When appointing members to the TAC, the Secretary of State must have regard to the desirability of appointing members who, between them, have expertise in—
- (a) United Kingdom animal and plant health standards,
 - (b) United Kingdom animal welfare standards,
 - (c) United Kingdom environmental standards as they relate to agricultural products, and
 - (d) international trade law and policy.
- (4) In subsection (3)(c), “agricultural products” has the meaning given in section 42 of the Agriculture Act 2020.”

Member’s explanatory statement

This amendment would provide for appointments to, and the purpose of, the Trade and Agriculture Commission.

LORD GRANTCHESTER
BARONESS BOYCOTT

As an amendment to Amendment 31

31A After subsection (3)(d) insert—

“(e) public health and health inequalities.”

LORD PURVIS OF TWEED
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

As an amendment to Amendment 31

32 After subsection (3) insert—

- “(3A) Before making an appointment under subsection (3) the Secretary of State must seek the consent of—
- (a) the Scottish ministers,
 - (b) the Welsh ministers, and
 - (c) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland and the Department for the Economy in Northern Ireland.
- (3B) Sub-paragraph (3C) applies if consent to an appointment is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority.
- (3C) In that event the Secretary of State—
- (a) may make the appointment without the consent of the authority or authorities concerned; and
 - (b) must, if the appointment is made, inform each authority which did not give consent of the reasons for the decision to proceed with the appointment.
- (3D) Before making an appointment under subsection (3) the Secretary of State must—
- (a) consult such persons as he or she considers appropriate and;
 - (b) have regard to their views when making such appointments ”

Member's explanatory statement

This amendment requires the Secretary of State to seek the consent of the devolved administrations to any proposed appointment to the Trade and Agriculture Commission. It also requires the Secretary of State to consult with relevant stakeholders and to have regard to their views when making such appointments.

LORD STEVENSON OF BALMACARA

As an amendment to Amendment 31

33

After subsection (4) 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,
- 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.”

LORD GRIMSTONE OF BOSCOBEL

34

Insert the following new Clause—

“Trade and Agriculture Commission: advisory functions

- (1) Section 42 of the Agriculture Act 2020 is amended as follows.
- (2) After subsection (4), insert—
 - “(4A) In preparing the report, the Secretary of State must—
 - (a) request advice from the Trade and Agriculture Commission on the matters referred to in subsection (2) except insofar as they relate to human life or health, and
 - (b) publish the request, together with any associated terms of reference or guidance.
 - (4B) Before laying the report, the Secretary of State must lay before Parliament any advice received in response to a request under subsection (4A).”

After Clause 6 - continued

- (3) In subsection (5) –
- (a) after “report” insert “or advice received in response to a request under subsection (4A)”;
 - (b) omit “of it”;
 - (c) in paragraph (d) after “report” insert “or advice”.
- (4) After subsection (6), insert –
- “(6A) On or before the third anniversary of IP completion day and at least once every three years thereafter, the Secretary of State must review the operation of subsections (4A) and (4B) and consider whether to make regulations under subsection (6B).
- (6B) The Secretary of State may by regulations repeal subsections (4A), (4B) and (6A), and amend subsection (5) to remove reference to advice requested in accordance with subsection (4A).
- (6C) Regulations under subsection (6B) are subject to the affirmative resolution procedure and may not come into force before the third anniversary of IP completion day.””

Member’s explanatory statement

This amendment would require the Secretary of State to seek advice from the Trade and Agriculture Commission in preparing a report under section 42 of the Agriculture Act 2020.

LORD GRANTCHESTER
BARONESS BOYCOTT

As an amendment to Amendment 34

- 34A** In subsection (2), in inserted subsection (4A)(a), leave out “except insofar as they relate to human life or health”

LORD GRIMSTONE OF BOSCOBEL

- 35** Insert the following new Clause –

“Trade and Agriculture Commission: further provision

- (1) Members of the TAC are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Secretary of State may provide members of the TAC with such staff, accommodation, equipment or other facilities as the Secretary of State may consider appropriate in connection with the preparation of advice requested under section 42 of the Agriculture Act 2020.
- (3) The Secretary of State may pay, or make provision for paying, expenses to any member of the TAC in connection with the preparation of advice requested under section 42 of the Agriculture Act 2020.
- (4) Schedule (*Trade and Agriculture Commission: public authorities legislation*) contains provision applying legislation relating to public bodies to the TAC.”

Member’s explanatory statement

This amendment would make provision about administrative matters relating to the Trade and Agriculture Commission.

36 Insert the following new Clause—

“Trade and Agriculture Commission: repeal

- (1) The Secretary of State may by regulations made by statutory instrument repeal sections (*Trade and Agriculture Commission*) to (*Trade and Agriculture Commission: further provision*).
- (2) Regulations under subsection (1) may make incidental, supplementary, consequential, transitional, transitory or saving provision, and such provision may modify an Act of Parliament.
- (3) Regulations under subsection (1) may not come into force before regulations under section 42(6B) (as inserted by section (*Trade and Agriculture Commission: advisory functions*)) of the Agriculture Act 2020.
- (4) 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.”

Member’s explanatory statement

This amendment would empower the Secretary of State to repeal provision relating to the Trade and Agriculture Commission if the Secretary of State’s duty to seek its advice under the Agriculture Act 2020 is repealed.

Clause 7

LORD STEVENSON OF BALMACARA

36A Page 5, line 9, leave out subsection (4)

Clause 8

LORD GRIMSTONE OF BOSCOBEL

37 Page 5, line 22, after “trade,” insert—

“(ab) facilitating the exercise by a devolved authority of the authority’s functions relating to trade,”

Member’s explanatory statement

This amendment would ensure that HMRC is able to disclose information to a devolved authority.

38 Page 6, line 9, after “2016” insert “(save that the powers conferred by this section are to be taken into account when determining whether a disclosure is prohibited by those provisions)”

Member’s explanatory statement

This amendment would correct a drafting error: the words in parenthesis should limit both paragraphs in subsection (6).

Clause 9

LORD GRIMSTONE OF BOSCOBEL

- 39 Page 7, line 6, after “2016” insert “(save that the powers conferred by this section are to be taken into account when determining whether a disclosure is prohibited by those provisions)”

Member’s explanatory statement

This amendment would correct a drafting error: the words in parenthesis should limit both paragraphs in subsection (8).

Clause 10

LORD GRIMSTONE OF BOSCOBEL

- 40 Page 7, line 46, at end insert –
- “(5) In relation to an offence committed before the commencement of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (4)(b)(i) to 12 months is to be read as a reference to 6 months.”

Member’s explanatory statement

This amendment would take account of the fact that magistrates do not have powers to confer a 12 month sentence (because paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 is yet to come into force).

After Clause 10

LORD LANSLEY

- 41 Insert the following new Clause –
- “International disputes**
- In section 32 of the Taxation (Cross-border Trade) Act 2018 (regulations etc), subsection (3), at the end insert –
- “(d) regulations under section 15 (international disputes etc).”

Member’s explanatory statement

This new Clause would amend the Taxation (Cross-border Trade) Act 2018 to require that, where the Secretary of State proposes tariff increases in pursuance of an international dispute (not as a trade remedy), such a regulation must be made subject to an affirmative procedure.

Clause 11

LORD GRIMSTONE OF BOSCOBEL

- 42 Page 8, line 4, at end insert –
- ““devolved authority” has the meaning given in section 4(1);”

Member’s explanatory statement

This amendment is consequential on the Government’s amendment to clause 8, page 5, line 22.

After Clause 13

BARONESS SHEEHAN
LORD PURVIS OF TWEED
LORD ALTON OF LIVERPOOL

43 Insert the following new Clause—

“International trade agreements: access to medicines

- (1) A Minister of the Crown may not make regulations under section 13(2) to commence the remaining provisions of this Act unless the conditions in subsections (2) and (3) are met in relation to the application of any agreement in any part of the United Kingdom.
- (2) The condition in this subsection is that no provision of an international trade agreement in any way undermines or restricts the ability of any government to uphold their citizens’ right to access medicines as part of the right to the highest attainable standard of health as stated in the International Covenant on Economic, Social and Cultural Rights of 1966.
- (3) In particular, an international trade agreement may not include—
 - (a) any provision that limits or curtails the Government’s right to make full use of the safeguard provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”), reaffirmed in the Doha Declaration on the TRIPS Agreement and Public Health, including but not limited to—
 - (i) the right to grant compulsory licenses (known as Crown Use License in the UK under the Patents Act 1977), and the freedom to determine the grounds upon which licences are granted;
 - (ii) the right to determine what constitutes a national emergency and circumstances of extreme urgency;
 - (iii) the freedom to establish the regime of exhaustion of intellectual property rights; and
 - (iv) strengthening patentability criteria;
 - (b) any provision that goes beyond what is required in the TRIPS Agreement and serves to delay the market entry of lower-priced generic health technologies, including but not limited to—
 - (i) data exclusivity,
 - (ii) patent linkage, and
 - (iii) patent remit extensions;
 - (c) any provision that lowers the bar for patentability;
 - (d) any Investor-State Dispute Settlement provision which would allow private companies—
 - (i) to challenge health-related legislation, such as pharmaceutical price control measures,
 - (ii) to challenge the procurement and tendering processes of the National Health Service or another country's health system, or
 - (iii) to challenge any government’s right to make full use of the safeguard provisions of the TRIPS Agreement.”

Member's explanatory statement

The aim of this Clause is to reaffirm a government's right to use internationally agreed safeguards to protect public health in particular in securing access to more affordable generic medicines

Before Schedule 1

BARONESS MCINTOSH OF PICKERING
 BARONESS HENIG
 BARONESS JONES OF MOULSECOOMB
 BARONESS RITCHIE OF DOWNPATRICK

44 Insert the following new Schedule—

“THE TRADE AND AGRICULTURE COMMISSION

Status

- 1 (1) The TAC is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The TAC's property is not to be regarded—
 - (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Membership

- 2 (1) The TAC is to consist of—
 - (a) a Chair appointed by the Secretary of State,
 - (b) other non-executive members appointed by the Secretary of State,
 - (c) a chief executive appointed by the Chair with the approval of the Secretary of State or, if the first Chair has not been appointed, by the Secretary of State, and
 - (d) other executive members appointed by the Chair.
- (2) The Secretary of State must consult the Chair before appointing the other non-executive members.
- (3) The Secretary of State and the Chair must ensure, so far as practicable, that the number of non-executive members is at all times greater than the number of executive members.

Terms of appointment and tenure of members

- 3 A person holds and vacates office as a member of the TAC in accordance with the terms and conditions of the person's appointment.
- 4 The terms and conditions of a person's appointment as a non-executive member of the TAC are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.
- 5 The terms and conditions of a person's appointment as an executive member of the TAC are to be determined by the Chair with the approval of the Secretary of State; but that is subject to the following provisions of this Schedule.
- 6 The terms and conditions of a person's appointment may cover, among other things—

Before Schedule 1 - continued

- (a) the period for which the person is to hold office;
 - (b) the person's eligibility for re-appointment;
 - (c) circumstances in which a person's membership may be suspended.
- 7 A person may resign from office as a non-executive member of the TAC by notifying the Secretary of State.
- 8 A person may resign from office as an executive member of the TAC by notifying the Chair.
- 9 The Secretary of State may remove a person from office as a non- executive member of the TAC if, in the opinion of the Secretary of State, the person is unable or unfit to carry out the functions of the office.
- 10 The Chair may remove a person from office as an executive member of the TAC if, in the opinion of the Chair, the person is unable or unfit to carry out the functions of the office.

Procedure

- 11 The TAC may determine its own procedure and the procedure of any TAC committee (including quorum).
- 12 The validity of any proceedings of the TAC is not affected by a vacancy or defective appointment.

Other provision

- 13 The Secretary of State may by regulations make other provision about the TAC including provision about –
- (a) staffing;
 - (b) remuneration of members and staff;
 - (c) delegation of functions;
 - (d) funding;
 - (e) accounts and reporting.
- 14 A statutory instrument containing regulations under paragraph 13 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 BLENCATHRA
LORD ALTON OF LIVERPOOL

45

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

Before Schedule 1 - continued

The right to respect for family and private life
 Freedom of thought, conscience and religion
 Freedom of expression
 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”

Schedule 2

LORD LENNIE
 BARONESS BENNETT OF MANOR CASTLE

- 46 Page 13, line 26, leave out from “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.”

Schedule 4

LORD BASSAM OF BRIGHTON
 BARONESS BENNETT OF MANOR CASTLE

- 47 Page 17, line 25, at end insert –
 “() In making appointments the Secretary of State must ensure that there is an appropriate balance among members of the Trade Remedies Authority of persons who have skills, knowledge or experience relating to producers, trade unions, consumers and devolved administrations in different parts of the United Kingdom.”

BARONESS BENNETT OF MANOR CASTLE
As an amendment to Amendment 47

- 48 After “unions,” insert “civil society,”

After Schedule 5

LORD GRIMSTONE OF BOSCOBEL

- 49 Insert the following new Schedule –
 “TRADE AND AGRICULTURE COMMISSION: PUBLIC AUTHORITIES LEGISLATION
Public records
 1 In Part 2 of the Table in paragraph 3 in Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert –
 “Trade and Agriculture Commission.”

After Schedule 5 - continued*Investigations by the Parliamentary Commissioner*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments subject to investigation), at the appropriate place insert –

“Trade and Agriculture Commission.”

House of Commons disqualification

- 3 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which members are disqualified), at the appropriate place insert –

“Trade and Agriculture Commission.”

Northern Ireland Assembly disqualification

- 4 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which members are disqualified), at the appropriate place insert –

“Trade and Agriculture Commission.”

Freedom of information

- 5 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which this Act applies), at the appropriate place insert –

“Trade and Agriculture Commission.”

Public sector equality duty

- 6 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Industry, Business, Finance, etc”, at the appropriate place insert –

“Trade and Agriculture Commission.””

Member’s explanatory statement

This amendment would provide the Schedule introduced by the amendment adding a new clause called “Trade and Agriculture Commission: further provision”.

In the Title

LORD GRIMSTONE OF BOSCOBEL

- 50 Line 2, after “it;” insert “to make provision about the Trade and Agriculture Commission;”

Member’s explanatory statement

This amendment would amend the long title to reflect new provision about the Trade and Agriculture Commission.

Trade Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

22 December 2020
