

# Trade Bill

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## RUNNING LIST OF ALL AMENDMENTS ON REPORT

Tabled up to and including

**27 November 2020**

[Sheets HL Bill 128 – R(a) to (f)]

### Clause 2

BARONESS MCINTOSH OF PICKERING

Page 2, line 18, at end insert “and where the new agreement is in wholly or substantially similar terms to that between the partner country and the EU.”

***Member’s explanatory statement***

*This amendment would limit the application of delegated powers to the “roll-over” of existing agreements.*

Page 2, line 23, at end insert “and where the new agreement is in wholly or substantially similar terms to that between the partner country and the EU.”

***Member’s explanatory statement***

*This amendment would limit the application of delegated powers to the “roll-over” of existing agreements.*

### After Clause 2

LORD PURVIS OF TWEED  
THE LORD BISHOP OF ST ALBANS  
LORD STEVENSON OF BALMACARA

Insert the following new Clause—

**“Parliamentary approval of trade agreements**

- (1) Nothing in this section restricts the power conferred by Her Majesty’s prerogative to commence, conduct negotiations towards and then conclude a trade agreement.
- (2) If a decision has been made by the Secretary of State to commence negotiations towards a free trade agreement, a statement must be made to both Houses of Parliament.

**After Clause 2 - continued**

- (3) Negotiations for that trade agreement may not proceed until the Secretary of State has laid draft negotiating objectives in respect of that agreement before Parliament, and a motion endorsing draft negotiating objectives has been approved by a resolution of each House of Parliament.
- (4) Prior to the draft negotiating objectives being laid, the Secretary of State must—
  - (a) consult each devolved authority on the content of the draft negotiating objectives, and
  - (b) produce a sustainability impact assessment including, but not limited to, an assessment of the impact of the proposed negotiating objectives on human, animal or plant life or health, animal welfare, environmental protection, human rights and equalities, and employment and labour.
- (5) A sustainability impact assessment under subsection (4)(b) must include—
  - (a) a statement on how the proposed trade agreement will advance the meeting of the Sustainable Development Goals; and
  - (b) a plan to maintain UK levels of statutory protection on the protection of human, animal or plant life or health, animal welfare, environmental protection, human rights and equalities, and employment and labour.
- (6) The Secretary of State must inform both Houses of Parliament, and any Select Committee charged by the relevant House with scrutinising trade negotiations in a manner and to an extent agreed with the Committee, of developments in the negotiations, but this does not affect the power of the Secretary of State to conduct negotiations as the Secretary of State considers appropriate.
- (7) For the purposes of subsection (6), “developments” means—
  - (a) a pause in negotiations;
  - (b) an ending of negotiations;
  - (c) the conclusion of a negotiated round of discussions;
  - (d) the decision to agree in principle an agreement; or
  - (e) other necessary aspects of the negotiations of which the Secretary of State considers it necessary to inform Parliament.
- (8) 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 is to be presented for signature by parties to the agreement has been laid before, and approved by, a resolution of each House of Parliament.
- (9) Before a Minister of the Crown moves a resolution to approve the text of a proposed free trade agreement in either House of Parliament, the Secretary of State must—
  - (a) consult each devolved authority on the text of the proposed agreement, and
  - (b) lay before Parliament an independent impact assessment of the agreement including, but not limited to, the requirements in subsection (4).
- (10) In this section—

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

*After Clause 2 - continued*

“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;

“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 relevant part of the United Kingdom, on the date on which the sustainability impact assessment is produced.”

BARONESS MCINTOSH OF PICKERING

BARONESS HENIG

BARONESS JONES OF MOULSECOOMB

BARONESS RITCHIE OF DOWNPATRICK

Insert the following new Clause—

**“Trade and Agriculture Commission**

- (1) A body corporate called the Trade and Agriculture Commission (“TAC”) is established.
- (2) The TAC must establish criteria for maintaining standards equivalent to standards applied within the United Kingdom at the time of import for goods imported under a trade agreement between the United Kingdom and any other state.
- (3) When the Secretary of State is undertaking negotiations for an international trade agreement on behalf of the United Kingdom with another state, the Secretary of State must consider any advice given by the TAC for the purposes of ensuring that the international trade agreement does not reduce or compromise standards.
- (4) A Minister of the Crown may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 that contains provisions relating to the importation of goods into the United Kingdom unless Conditions A, B and C have been met.
- (5) Condition A is that the TAC has prepared a report assessing the extent to which the international trade agreement is likely to reduce the ability of the United Kingdom to maintain standards.
- (6) Condition B is that a Minister of the Crown has laid the report before Parliament.
- (7) Condition C is that each House of Parliament has agreed a motion, moved in accordance with subsection (8) by a Minister of the Crown, that the international trade agreement does not diminish standards within the meaning of this section.

*After Clause 2 - continued*

- (8) So far as practicable, a Minister of the Crown must make arrangements for the motion mentioned in subsection (7) to be debated and voted on by each House of Parliament within a period of 42 days beginning with the day on which the report was laid under subsection (6).
- (9) In this section, “standards” means standards relating to—
  - (a) animal welfare,
  - (b) protection of the environment,
  - (c) food safety, hygiene and traceability,
  - (d) plant health, and
  - (e) employment and human rights.
- (10) Schedule (*The Trade and Agriculture Commission*) makes further provision about the TAC.”

LORD COLLINS OF Highbury  
LORD PURVIS OF Tweed  
LORD ALTON OF LIVERPOOL  
THE LORD BISHOP OF ST ALBANS

*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.*

LORD LANSLEY

Insert the following new Clause –

**“Ratification of international trade agreements and treaties**

- (1) The Constitutional Reform and Governance Act 2010 is amended as follows.
- (2) In section 20 (treaties to be laid before Parliament before ratification), after subsection (1)(b) insert –
  - “(ba) where the treaty is an international trade agreement as defined in the Trade Act 2020 –
    - (i) a Minister of the Crown has published an analysis of the requirement for the treaty to be implemented through changes to domestic legislation, and
    - (ii) where changes to domestic legislation would be required as described in the analysis under paragraph (ba)(i), the necessary legislation has been laid in the form of a statutory instrument or the necessary primary legislation has been enacted.”.
- (3) In section 21 (extension of 21 sitting day period), after subsection (2) insert –

**After Clause 2 - continued**

“(2A) Where a relevant Committee of either House of Parliament has recommended that a treaty constituting an international trade agreement as defined by the Trade Act 2020 should be debated in that House, the Minister of the Crown must ensure that the period does not expire before that debate has taken place.””

**Clause 6**

BARONESS MCINTOSH OF PICKERING

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

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.*

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 10**

LORD LANSLEY

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.*

### Before Schedule 1

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

Insert the following new Clause—

“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—
  - (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.

**Before Schedule 1 - continued**

- 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

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

Freedom of assembly

The right to marry and start a family

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

**Before Schedule 1 - *continued***

The right to protection of property

The right to education

The right to participate in free elections

The abolition of the death penalty”