

Trade Bill

REVISED
SIXTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 6

LORD ROOKER

80

Page 4, line 32, at end insert –

“(5) The TRA may publish in such a manner as it thinks fit –

(a) any advice given under this section, and

(b) any other information in its possession, from any source.

(6) Before deciding to publish any information under subsection (5), the TRA must consider whether the public interest is outweighed by any consideration of confidentiality.”

Member’s explanatory statement

The purpose of this amendment is to give the TRA the same powers as the Food Standards Agency to reinforce its operational independence.

After Clause 6

LORD BASSAM OF BRIGHTON
BARONESS BENNETT OF MANOR CASTLE
LORD ROOKER

81

Insert the following new Clause –

“Board of Trade Appointments

Appointments to the Board of Trade may only be made –

(a) following the recruitment process set out in the Governance Code for Public Appointments,

After Clause 6 - continued

- (b) under the supervision of the Commissioner for Public Appointments, and
- (c) after appointees have appeared in front of the Select Committee for International Trade of the House of Commons.”

LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK
BARONESS ALTMANN
BARONESS SUTTIE

82 Insert the following new Clause –

“Trader Support Service

Persons and businesses seeking to bring trade goods into Northern Ireland from outside the United Kingdom, including goods that transit through the rest of the United Kingdom, may access the Trader Support Service at no cost.”

Member’s explanatory statement

The Trader Support Service established to facilitate the trade of GB and Rest of World goods into NI is currently only for a two year period. This amendment extends that support indefinitely in respect of goods from outside the UK, including goods that transit through the rest of the UK.

LORD STEVENSON OF BALMACARA

83 Insert the following new Clause –

“Trade advisory groups

- (1) The Secretary of State must ensure that each trade advisory group includes at least one representative of a trade union.
- (2) A Minister of the Crown may not require a member of a trade advisory group, as a condition of membership, to agree not to disclose any information about the operations of the group or its discussions.
- (3) The Secretary of State must provide every relevant trade advisory group with any information which members of that group request regarding –
 - (a) the negotiating objectives of Her Majesty’s Government in relation to any proposed international trade agreement, and
 - (b) the progress of such negotiations and any salient developments, including matters that have been agreed or changes in the negotiating positions of any of the parties.
- (4) In this section, “trade advisory group” means a group of experts established by the Department for International Trade to advise the department about international trade negotiations and called a “trade advisory group”.

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED

83A Insert the following new Clause –

“Economic interest test: environmental obligations

- (1) The Taxation (Cross-border Trade) Act 2018 is amended as follows.

After Clause 6 - continued

- (2) In paragraph 25(4)(a) of Schedule 4 (the economic interest test), at the end insert—

“(vi) the effect on the United Kingdom’s environmental obligations in domestic and international law.””

Member’s explanatory statement

This amendment requires the TRA or the Secretary of State to take account of the UK’s environmental obligations if the TRA or the Secretary of State is considering whether they are satisfied that the application of an anti-dumping remedy or anti-subsidy remedy meets or does not meet the economic interest test under the Taxation (Cross-border Trade) Act 2018.

Clause 7

BARONESS NOAKES

- 84 Page 5, line 8, at end insert—

“() Regulations under subsection (3) may not have the effect of making the provision of information compulsory.”

Member’s explanatory statement

This amendment is designed to ensure that compliance with a request for information under subsection (1) is voluntary.

LORD BASSAM OF BRIGHTON

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

BARONESS MCINTOSH OF PICKERING

- 85A Page 5, line 17, at end insert—

“(7) Nothing in regulations made under subsection (3) may require the disclosure of information or the production of documents which are subject to legal professional privilege.”

Clause 8

LORD GRIMSTONE OF BOSCOBEL

- 86 Page 5, line 22, after “trade,” insert—

“(aa) 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.

BARONESS NOAKES

- 87 Page 5, line 25, leave out “include, among other things, functions relating to” and insert “are”

Member's explanatory statement

This amendment and the other in Baroness Noakes' name to this clause are designed to ensure that the disclosure powers are strictly confined.

88 Page 5, leave out lines 37 and 38

Member's explanatory statement

This amendment and the other in Baroness Noakes' name to this clause are designed to ensure that the disclosure powers are strictly confined.

LORD STEVENSON OF BALMACARA

89 Page 5, line 46, at end insert “, subject to the modifications in subsection (4A).

(4A) For the purposes of subsection (4), section 19 of the Commissioners for Revenue and Customs Act 2005 has effect as if it were subject to the following modifications—

(a) for subsection (4)(a) there were substituted—

“(a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or”; and

(b) after subsection (4) there were inserted—

“(4A) Where a person is a corporation, a fine under subsection (4)(a) may not exceed 4% of the corporation’s annual turnover.””

BARONESS MCINTOSH OF PICKERING

89A Page 6, line 9, at end insert—

“() Nothing in this section authorises the disclosure of information or the production of documents which are subject to legal professional privilege.”

Clause 10

LORD GRIMSTONE OF BOSCOBEL

90 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 what will become the Sentencing Act 2020 is yet to come into force).

After Clause 10

LORD LANSLEY

LORD PURVIS OF TWEED

91 Insert the following new Clause—

“International disputes

In section 32 of the Taxation (Cross-border Trade) Act 2018, subsection (3), at 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.

LORD LANSLEY
LORD CHIDGEY
LORD JUDD

92 Insert the following new Clause—

“Preferential rates given unilaterally

- (1) In section 32 of the Taxation (Cross-border Trade) Act 2018, subsection (3), at end insert—
 - “(d) the first regulations under section 10 (preferential rates given unilaterally).”
- (2) In Schedule 3 to the Taxation (Cross-border Trade) Act 2018, Part 4, paragraph 2(1), at end insert—
 - “(c) in the case of the list in Part 2 or 3, the government of that country has committed abuses of human rights of such a character and scale that, in the view of the Secretary of State, unilateral trade preferences should be withdrawn.””

Member's explanatory statement

This new Clause relates to the Scheme of Preferences as provided for in Section 10 and Schedule 3 of the Taxation (Cross-border Trade) Act 2018. The first sub-clause requires that the first regulations made to establish the scheme (to apply from IP Completion day) must be made by an affirmative process. The second sub-clause confers a specific power to remove a country from the list of those benefiting from unilateral trade preferences where the government of that country has committed human rights abuses.

LORD LANSLEY

93 Insert the following new Clause—

“Parliamentary scrutiny of power to designate free zones

- (1) Orders made under section 100A(1) of the Customs and Excise Management Act 1979 are subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Before making an order under section 100A(1) of the Customs and Excise Management Act 1979, the Treasury must consult persons whom they consider representative of those people and enterprises situated in the area to be designated.”

Member's explanatory statement

This new Clause amends the legislation relating to Free Zones, so that there is consultation locally before an area is designated; and that the power to designate a Free Zone is by a Statutory Instrument subject to a negative procedure.

LORD STEVENSON OF BALMACARA
BARONESS MCINTOSH OF PICKERING

94 Insert the following new Clause—

“Arbitration and alternative dispute resolution: duty to report

- (1) This section applies where—
 - (a) any international trade agreement specifies an arbitration or alternative dispute resolution procedure to resolve disagreements between signatories about the interpretation, implementation or enforcement of the agreement;
 - (b) the United Kingdom is a party to such an arbitration or alternative dispute resolution procedure; and
 - (c) the final outcome of the arbitration or alternative dispute resolution procedure is a decision or settlement that requires the law of the United Kingdom to be amended.
- (2) Where this section applies, the Secretary of State must make and lay before Parliament a report setting out—
 - (a) the facts of the disagreement and the issues raised,
 - (b) the decision or settlement, and changes needed to the law of the United Kingdom to give effect to, or comply with, the decision or settlement, and
 - (c) the response of Her Majesty’s Government.”

BARONESS MCINTOSH OF PICKERING
LORD WIGLEY

95 Insert the following new Clause—

“Supporting business viability for sectors with just-in-time supply chains

The appropriate authority may by regulations make provision to reduce the costs for the farming sector of complying with legislation related to the export and import of goods, including the minimisation of veterinary checks and physical inspections on large volumes of food products.”

Clause 11

LORD GRIMSTONE OF BOSCOBEL

96 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

LORD PURVIS OF TWEED
BARONESS SHEEHAN
BARONESS BENNETT OF MANOR CASTLE

97 Insert the following new Clause—

“Report on impact on developing countries

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

Member’s explanatory statement

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

LORD STEVENSON OF BALMACARA
BARONESS MCINTOSH OF PICKERING

98 Insert the following new Clause—

“Conditions of commencement

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

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

Member’s explanatory statement

This amendment ensures powers in this Bill do not commence without a parliamentary vote on either an EU-UK Free Trade Agreement or ending the transition period with no deal.

Schedule 1

LORD WIGLEY
BARONESS MCINTOSH OF PICKERING

- 99 Page 13, line 4, at end insert –
“10 No regulations may be made by a Minister of the Crown under section 2(1) so far as they contain provision which would be within the devolved competence of Welsh Ministers, unless the Welsh Ministers consent.”

Schedule 2

LORD LENNIE

- 100 Page 13, line 26, leave out from “section 1(1)” to end of line 27 and insert “may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement

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

- 101 Page 13, line 27, at end insert –
“() A statutory instrument containing regulations under section 1(1)(b)(ii), may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- 102 Page 13, line 27, at end insert –
“() A statutory instrument containing regulations under section 1(1) which make changes to coverage schedules in the Agreement on Government Procurement may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

LORD STEVENSON OF BALMACARA
BARONESS MCINTOSH OF PICKERING

- 103 Page 15, line 25, at end insert –
“4A(1) A statutory instrument containing regulations of a Minister of the Crown acting alone under section 2(1) in respect of an international trade agreement which does not meet the criteria under section 2(3) or section 2(4) may not be made except in accordance with the steps in sub-paragraphs (2) to (5).
(2) The Minister must lay before Parliament –
(a) a draft of the regulations, and
(b) a document which explains why the Secretary of State believes that regulations should be made in the terms of the draft regulations.
(3) The Minister may make regulations in the terms of the draft regulations laid under sub-paragraph (2) if –

Schedule 2 - continued

- (a) after the expiry of a period of 21 sitting days after the draft regulations are laid, no committee of either House of Parliament has recommended that the regulations should not be made, and
 - (b) after the expiry of a period of 60 sitting days after the draft regulations are laid, the draft regulations are approved by a resolution of each House of Parliament.
- (4) If a committee of either House of Parliament recommends that the regulations should not be made, the Secretary of State may –
- (a) lay before Parliament revised draft regulations, and
 - (b) after the expiry of a period of 40 sitting days after the revised draft regulations are laid, make a motion for a resolution in each House of Parliament for approval of the revised draft regulations.
- (5) If a motion under sub-paragraph (4)(b) is approved by a resolution of each House of Parliament, the Secretary of State may make the regulations.”

Member’s explanatory statement

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

Schedule 4

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED

104 Page 17, line 11, at end insert –

- “(3) The TRA is to be operationally independent of the Secretary of State.
- (4) In exercising any powers related to dumping, subsidisation, guarantees, anti-dumping amount and countervailing amount as laid out in Schedules 4 and 5 to the Taxation (Cross-border Trade) Act 2018, the Secretary of State may not exercise powers in the absence of a recommendation of the TRA and may not depart from a recommendation of the TRA except to reject it.
- (5) The Secretary of State may not instruct the opening or reopening of an investigation which the TRA has closed and on which the TRA made no recommendation unless there are changes in circumstances.”

LORD LANSLEY

104A Page 17, line 17, leave out from “Secretary of State” to “, and” in line 18

105 Page 17, line 19, at end insert –

- “() Before appointing a Chair, the Secretary of State must make a nomination of that person to the International Trade Select Committee of the House of Commons or its successor, and must have regard to the views of that Committee, whether following a pre-appointment hearing or otherwise, in making the appointment.”

Member's explanatory statement

This amendment requires the Secretary of State to have regard to the views of the International Trade Select Committee or its successor, following a pre-appointment hearing if the Committee so wishes, before appointing the Chair of the Trade Remedies Authority. It does not make the appointment subject to the approval of the Committee.

LORD STEVENSON OF BALMACARA
BARONESS MCINTOSH OF PICKERING
LORD WIGLEY

106 Page 17, line 25, at end insert –

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

Member's explanatory statement

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

LORD STEVENSON OF BALMACARA
BARONESS MCINTOSH OF PICKERING

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

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

Member's explanatory statement

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

LORD BASSAM OF BRIGHTON
BARONESS MCINTOSH OF PICKERING

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

- “3 A person holds office as a member of the TRA for a fixed period of five years from the date of appointment; and a person is eligible for renewal of appointment for a further fixed period of five years upon the expiry of the first period.”

LORD LANSLEY

108A Page 18, line 35, leave out paragraphs 17 to 23

Schedule 4 - continued

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED
LORD WIGLEY

- 109 Page 20, line 2, at end insert –
“() The TRA may establish an advisory committee or committees comprising stakeholders including representatives of –
(a) the devolved nations,
(b) the Trades Union Congress, and
(c) business, including small business, and consumers.”

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED

- 110 Page 20, line 35, at end insert “and undertake transferred liabilities under Schedule 5”

- 111 Page 21, line 22, after “functions” insert “and activities”

- 112 Page 21, line 23, at end insert “including –
(a) its recommendations accepted and rejected by the Secretary of State,
(b) an assessment of the impact on consumers and jobs, and
(c) the weighting given to various elements of the economic interest assessment.”

LORD LANSLEY

- 113 Page 21, line 24, at end insert –
“(2A) The report must include an account of when, and for what purposes, the Secretary of State made a request under section 6(1) of this Act in the course of that year.”

Member’s explanatory statement

This amendment would require that the annual report of the TRA includes an account of when, and for what purposes, the Secretary of State has requested the TRA’s advice in relation to an international trade dispute.

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED

- 114 Page 22, line 15, leave out from “and” to end of line 18 and insert –
“(c) protect the TRA’s operational independence and its ability to make impartial assessments when performing its functions.”

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13 October 2020
