

Written evidence submitted by Traidcraft (TB09)

Summary

Modern trade agreements impact across all areas of public policy with significant implications for public services and society. These agreements cannot be left to the prerogative of the Government of the day, but instead should be based on public consultation and subject to full parliamentary debate and consideration. There are a number of areas where the proposed Trade Bill should be improved to ensure the Government meets its commitment to sustainable development, ensures greater accountability to the electorate and upholds democratic principles.

- The Bill should be amended to incorporate obligations to ensure sustainable development as a key consideration in any trade agreement.
- It should be further amended to create an obligation for the Government to conduct and publish independent impact assessments for all proposed agreements which consider the potential impacts on delivery of the Sustainable Development Goals (SDGs), tackling inequality, and action on climate change, environmental protection and human rights.
- The Bill requires amendment to guarantee the right of Parliament to scrutinise, amend, ratify or reject trade agreements through affirmative voting procedures with a presumption towards full transparency and publication of negotiating texts.
- The proposed replication of EU FTAs, including the controversial Economic Partnership Agreements (EPAs) provides a clear example of the need for greater scrutiny powers to be contained within this Bill. Traidcraft believes EPAs should be subject to an impact assessment and further scrutiny (as outlined in this submission) and that the Bill should be amended to allow replicated EPAs to be subject to a sunset clause, allowing time for alternative arrangements to be put in place.

A representative from Traidcraft is available to provide supplementary information or oral evidence to the Bill Committee as required.

Introduction to Traidcraft

1. Traidcraft is a medium size UK plc with a turnover of £11 million. For over 35 years we have imported grocery and homeware products from suppliers in over 30 developing countries. We are headquartered in Gateshead and employ over 100 staff there. We operate on fair trade terms which include provision of advance credit, minimum pricing, development premiums, and long term stable trading partnerships.
2. Traidcraft also comprises a development charity, Traidcraft Exchange, which provides support to small enterprises and farmers groups in East Africa and South Asia. Our policy team conducts research and lobbies on trade and investment policy and corporate accountability issues.

Comments on the Trade Bill impact on Government commitments to sustainable development

3. Trade can be a vital tool for countries and people to work their way out of poverty. It can support job creation, value addition and clean industrialisation. As the UK begins to develop an independent trade policy there is an opportunity to develop a gold standard for development, to put sustainability and rights at the heart of UK policy and to ensure that there is coherence between Britain's trade agenda and our world-class development work.

4. Modern trade agreements have consequences for all parts of public policy and regulatory standards are particularly key in this. Parliamentarians must have a say in determining the level of ambition the Government will set when it comes to maintaining high standards when negotiating trade deals.
5. The Trade Bill is an opportunity for the Government to establish itself as a leader in relation to embedding delivery of the Sustainable Development Goals. The goals are relevant to both domestic and international policy agendas and the Government should incorporate tackling inequality, and action on climate change, environmental protection and human rights in its trade policies.
6. The Government could signal its intentions, and fulfil its recent pledge to enhance trade for developing countries,¹ by inserting a short paragraph within the bill preamble outlining the purpose of UK trade policy is to increase prosperity, reduce inequality and ensure sustainable development. This would mirror article 3 of the Lisbon Treaty which outlines the purpose of the internal market is to work for sustainable development, social progress and environmental protection among other things.²

Comments on the need for impact assessment

7. Traidcraft supports proposals for amendments that would require the Government to commission, publish and consult on independent impact assessments for all proposed trade negotiations before they begin. This should include the proposed replication of existing EU treaties.
8. These assessments would identify the potential impacts on a range of issues including the social and economic consequences in developing countries, the impacts on consumer rights, labour rights, environmental protection and human rights.

Comments on the need for greater transparency and scrutiny

9. The Bill proposes that 'transitioned' FTAs and EPAs be passed by use of statutory instrument by negative resolution. The Government argues that these agreements are already being implemented and have been scrutinised at the EU level and suggest this is a purely technical exercise with no further scrutiny needed.
10. We disagree. Scrutiny of these agreements at a European level did not incorporate assessment of the impacts of Brexit and scrutiny at a UK level has been limited to ratification by negative resolution with no opportunity for full parliamentary debate, scrutiny or affirmative vote. The current procedure under the Constitutional Reform and Governance Act 2010 does not place any requirement for a vote in Parliament to ratify a treaty.

¹ <http://bit.ly/2BdmRUu>

² <http://bit.ly/28XAF2V>

11. These agreements cannot and will not be identical to ones agreed by those parties with the EU. There will necessarily be changes to the content. Negotiating parties may not wish to commit to new deals until they have a clearer picture of the UK's relationship with the EU and they may well wish to press for improvements.
12. In evidence to the Trade Select Committee Liam Fox, alongside DIT Permanent Secretaries, indicated that these will be new deals, with the contents requiring some negotiation. Some of the powers sought in the bill precisely anticipate the need for 'substantial amendments, including new obligations' as outlined in the delegated powers memorandum.³ For example the Southern Africa EPA enables South Africa to export a certain quota of canned fruit to the EU28. This quota will need to be reallocated in the new UK-specific agreement. Any such changes alter the terms of trade and, therefore the predicted impacts, costs and benefits.
13. Given the reality that these are 'legally distinct' agreements, that will be binding, have indefinite effect and form the first foundations of Britain's new trade policy, full scrutiny is required. This should include consultation with stakeholders, assessment of impact, scrutiny, full debate and approval by both Houses and devolved administrations.
14. Traidcraft supports amendments to the Bill to ensure full parliamentary scrutiny and public transparency for all trade agreements including those existing EU trade agreements that the UK is presently party to and proposed to be transitioned into UK law.

Concerns about replicating some EU FTAs with developing countries (EPAs)

15. The Trade Bill would grant the Government powers to replicate existing EU trade agreements including Economic Partnership Agreements (EPAs) with developing countries.
16. The EU's negotiation of EPAs has been highly contested and some of the deals remain controversial or patchily implemented. Unconsidered replication of these deals without full assessment of pro-development alternatives could damage vulnerable economies, undermine development efforts and represents a missed opportunity to support sustainable development. Concern around the EPAs underlines the importance of impact assessments and why additional parliamentary scrutiny of these replicated FTAs is essential.
17. In pursuing reciprocal EPAs the EU has required high levels of liberalisation from developing country partners – including regions that contain Least Developed Countries, with no gain for them other than maintaining existing levels of market access. Such wholesale liberalisation towards a dominant trading partner can undermine industrialisation strategies, national poverty reduction plans and protection of domestic value addition processing. EPAs have also been criticised for the imposition of negotiations on issues such as investment protection and government procurement liberalisation which had previously been rejected at the multilateral level.

³ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0122/Trade-Bill-Delegated-Powers-Memorandum.pdf>

18. EPAs have been resisted by many developing country governments and criticised repeatedly, including by the International Development Select Committee⁴, by European government officials⁵ and civil society globally. The UN Economic Commission for Africa has called for a 'pause' in EPA negotiations in Africa to allow progress towards a Continental Free Trade Area.
19. Despite negotiations starting in 2002 only two full regional EPAs are in force. One with southern Africa and one with the Caribbean. The other, more contentious, agreements remain under discussion, while a number of additional stand-alone agreements have been signed with individual countries; often contravening their membership of regional customs unions.
20. In East, West and Central Africa the EPA groupings are made up predominantly of LDCs whose market access is already secure through 'Everything But Arms' and non-LDCs who have been forced into pressing their neighbours to sign these deals. This has created tensions and instability in these regions and led to an impasse in negotiations.
21. The EU's approach sits in clear contrast to the way other developed economies trade with developing countries. The overwhelming majority utilise non-reciprocal, unilateral preference schemes as opposed to seeking concessions from developing countries before granting market access. While the Government has legislated for such a preference scheme in the Taxation (Cross-Border Trade) Bill, there is a danger that moves to replicate EPAs in the Trade Bill undermine the Government's commitment.
22. Therefore Traidcraft suggests that the Trade Bill should be amended to require the government to conduct new impact assessments before seeking to replicate trade agreements with developing countries.
23. The Bill should be further amended to ensure that these impact assessments and draft text of any proposed agreement should be scrutinised by a dedicated committee of Parliament which may suggest improvements before referring the agreement for approval of the whole house.
24. The Bill should also be amended to allow for replicated EPAs to be subject to a sunset clause by which after five years they fall, allowing for their replacement by improved alternative arrangements.
25. If the scrutiny process reveals that replication of EPAs would harm sustainable development then they should not proceed and improved non-reciprocal options should be provided by the Government.

January 2018

⁴ The International Development Select Committee enquiries in 1998, 2004 and 2007 were critical of the EU's EPA approach.

⁵ Gunther Nooke, Merkel's representative to Africa recently agreed that EPAs are 'are not an agreement, and not a partnership'.