

Written evidence submitted by St Andrews TTIP Action Group, St Andrews, Fife, Scotland, a member of the Trade Justice Scotland Coalition (TB11)

Response to Liam Fox's Trade Bill at Committee Stage

Summary

- Rather than viewing the Trade Bill merely as a vehicle with which to “cut and paste” EU Trade Deals, with all their flaws, into UK law, our Group sees Brexit as an opportunity to begin to rethink and reform UK Trade policy. To this end we have helped to produce a set of 10 ethical principles which we think should underpin all future Trade Deals. (We are delighted to report that the Scottish Government last week voted to endorse our Just Trade principles. We think that this is the first time a European Parliament has passed such a resolution.)
- We have attached our Principles, and in this submission we endeavour to demonstrate how this Trade Bill might be amended to permit the government to move towards a position which more closely reflects these principles.
- As a Scottish Group, we are especially interested in those aspects of the Trade Bill which touch on devolution, and in this submission we suggest changes to the Bill which would ensure that the Scottish government is fully involved in the Trade arena.

Our recommendations to the Trade Bill Committee are in italics.

Introduction

The St Andrews TTIP Action Group is “a town and gown group set up to raise awareness of, facilitate debate about, and campaign on, aspects of TTIP and other Trade Deals”, so we thank the House of Commons Public Bill Committee for the opportunity to comment on this Trade Bill as it reaches the committee stage of the process. (We would, however, want the Committee to appreciate how difficult it is for citizen groups like ours to respond to calls for evidence within such a ridiculously short time frame, and with a moveable closing date to boot!)

OUR RECOMMENDATIONS TO THE COMMITTEE (*in italics*)

Our Ten Principles for Just Trade rest on three pillars

Pillar 1. Trade should be democratic.

Pillar 2. Trade should work in the public interest.

Pillar 3. Trade should do good.

We would propose the following changes which would make the Bill more compatible with these three pillars.

1. Trade should be democratic

As a Scottish Group the most concerning aspect of this Trade Bill with regard to Trade democracy is the fact that the Bill says nothing about how Scotland might be involved in treaty negotiations in the future. Whilst we appreciate that neither the Concordat on International Relations nor the Sewell Convention is legally binding, we would expect Scotland to be given firm assurance in law, to permit responsibility for Trade in devolved matters like health, education, agriculture and the environment.

We would therefore recommend that the Trade Bill should ensure that Scotland is fully involved in the development of Trade policy by:

(i) granting devolved administrations a vote on all trade agreements.

(ii) allowing Scotland the opportunity to participate in the formulation of the negotiating mandate for all new trade deals.

(iii) creating a Joint Ministerial Committee on International Trade, in order to strengthen Scotland's oversight of UK Trade policy.

(iv) including Scottish representatives in all official UK trade negotiating delegations.

Next, we note that there is little in the Bill which alludes to transparency. An approach to trade agreements which is truly democratic would consider transparency to be of the utmost importance. Transparency is the norm in many governmental organisations from the World Health Organisation to the Human Rights Council.

Accordingly we would recommend that the government should :

(v) publish its trade objectives before starting trade negotiations.

(vi) publish impact assessments ahead of negotiations.

(vii) publish all documents that are tabled during, before and after each round.

(viii) publish ongoing impact assessments of all trade agreements.

Effective scrutiny is also an important aspect of democratic trade agreements. This Group was shocked at the lack of scrutiny afforded the CETA deal, with no debate in Parliament (despite the fact that the Secretary of State had openly promised this) and a final covert vote in a back room in Westminster. In order to improve this shocking situation, we would recommend that:

(ix) the Government expand the remit of the International Trade Committee to oversee and scrutinise Trade negotiations and deals.

OR

(x) the Government create a parallel Trade Scrutiny Committee, which would recommend any amendments it felt were necessary before negotiations commenced, review impact assessments before the start of negotiations, and recommend amendments to draft agreements.

Our Group is also aware that this Bill does not tackle the present lack of Parliamentary oversight in the UK with regard to Trade Deals, where for example the existing ratification procedure does not guarantee a Parliamentary vote on Trade Deals.

Given that at present Trade Deals impact on most aspects of our lives, we would recommend that:

(xi) there is a debate in Parliament before every Trade Deal.

(xii) Parliament can amend Trade Deals.

(xiii) all trade deals are subject to an affirmative vote in Parliament.

2. Trade should work in the public interest.

We are aware that under existing legislation, the Government is not required to consult the public about its trade policy. This reduces the public's trust in Trade agreements, especially when, in the case of this very Bill, it is patently obvious that the consultation responses were not read prior to publication.

We would recommend that:

(i) the government establish an NGO Advisory Board whose members come from civil society and who have access to information to scrutinize draft negotiation texts.

(ii) representatives from civil society should be observers in official UK Trade delegations.

(iii) public consultations before trade negotiations become mandatory.

(iv) the reports on public consultations should be published before initiating trade negotiations.

3. Trade should do good.

The Bill establishes a new UK non-departmental public body called the Trades Remedies Authority (TRA) which would allow the Government to take steps against unfair competition from dumped or subsidized imports (Clause 5 and

Clause 6). We note that all aspects of the work of the authority are firmly controlled by the Secretary of State, potentially concentrating too much power in the hands of one minister.

Accordingly, we would recommend that:

(i) the terms and conditions be rewritten to ensure the independence of the TRA.

We note that nothing has been said in the Bill about other aspects of Trade disputes. Most of the EU agreements the Government is hoping to transfer to the UK will contain dispute mechanisms like ISDS, ICS and perhaps MIC. Our Group does not believe these mechanisms contribute to trade which does good, in that it is unfairly weighted in favour of big companies. We would recommend that :

(ii) Government abandons ISDS, ICS, and MIC in future Trade Deals.

In the Trade Bill (Clause 1), the Government defines the route it will take to join the GPA (Agreement on Government Procurement). It is disappointing to note that there are no plans to reform the approach to the liberalisation of procurement markets contained in the GPA. Unless there is a rethink the ability of local councils to encourage and support local enterprise will be further eroded.

We would recommend that:

(iii) Government be prepared to reform the GPA to enable public sector buyers to choose to buy British, to buy local, and especially to buy Scottish!

Principles for Just Trade deals

Trade Justice Scotland Coalition



The Trade Justice Scotland Coalition firmly believes that trade should benefit all.

Currently, trade deals grant too much power to corporations, weakening democracy and the ability of governments to protect people and the planet. We believe that trade deals should honour obligations to human rights, workers' rights and climate change commitments. Trade deals should be used to help build a fairer society and protect the planet.

Here are our main principles for just trade:

Trade should be democratic

1. Trade policy and trade negotiations should begin with, and continue to create, opportunities for meaningful consultation with the public, with the UK parliament, and with the devolved administrations. The UK parliament should be able to scrutinise, amend or terminate trade negotiations. Negotiations should be fully transparent for parliament and the public. The interim and final texts of trade agreements should be published, with versions also written in plain language so that their implications can be understood by all.

Devolved administrations should be given the opportunity to participate in the formulation of UK trade policy. New trade deals should be debated and voted on at Holyrood, Cardiff and Stormont, with the right of elected members to have a binding vote for or against any aspects of an agreement that fall within their devolved competencies (e.g. health in Scotland.) There should be options for a referendum on particularly controversial deals.

Trade should work in the public interest

2. Trade rules should comply with human rights, labour standards, environmental standards and climate commitments.

3. Trade agreements should focus on trading in goods. Public services, patents, local and national government procurement, domestic regulation, migration, investment and data privacy lie outside the scope of trade agreements. A policy of "positive listing" would reinforce this principle.

4. Domestic courts rather than 'corporate courts', (which give foreign companies special legal rights outside of the national legal system) should deal with trade disputes. The Investor State Dispute Settlement mechanism, the Investor Court System and the proposed Multilateral Investment Court are heavily weighted against governments.

5. Trade agreements should include mechanisms for individuals, groups and communities to bring grievance proceedings for harm caused by the trade agreements. The requirement for a periodic review of the social, environmental and human rights impact of a trade agreement should be written into the text, with a provision for parliament to withdraw from a trade agreement if it is too damaging.

6. A compensation package and alternative decent work for those who lose out as a result of a trade deal should be a pre-requisite of any trade negotiation. When agreements are between developed and developing countries, the developed countries should provide finance for this.

Trade should do good

7. Trade agreements must ensure tariffs and trade preferences take social and environmental considerations into account, so that goods with less environmental impact and higher social welfare receive greater preference.

8. Trade agreements should commit countries to raising standards to the highest, not lowest level, including meeting human rights, labour, environmental and climate obligations.

9. A just trade system should be based on solidarity not competition. Within this system trade deals could facilitate the sharing of knowledge and technology, for example low carbon energy and generic medicines, particularly with countries in the global south.

10. Foreign aid should be kept as a separate issue from trade, so that it cannot be used to persuade a country to open up its domestic markets.

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