

Briefing: Trade Bill - Second Reading

Wednesday 20 May, afternoon



TOP LINES

- **The Government is pressing ahead with trade negotiations with the US and elsewhere, despite there being no system of transparency or democratic scrutiny of trade deals.**
- **The Trade Bill provides an opportunity to set out a democratic process for trade agreements. MPs should support amendments which provide for this.**
- **The Trade Bill should also include amendments which maintain UK food and animal welfare standards and protect the NHS and public health from provisions in trade deals.**
- **The Covid crisis has hit global trade. It is essential that the UK trade policy maintains the right to regulate, protects the NHS and supports countries in the Global South.**

Background

The Trade Bill aims to put in place provisions needed before the UK can adopt an independent trade policy, including the establishment of a Trade Remedies Authority, and also provides for the 'rolling over' of some 40 trade agreements to which the UK is party through EU membership. These need to be signed and implemented before the end of the Brexit transition period.

While the Bill does not explicitly set out a framework for the development and scrutiny of trade policy, it is the only piece of trade-relevant legislation proposed by the government. The previous version of the Trade Bill, which was dropped by the last government, was amended to include provisions on Parliamentary scrutiny of new trade deals (more on this below). While the new version of the bill is unlikely to see the same level of government defeats as before, it remains a controversial piece of legislation due to the importance of post-Brexit trade policy, the lack of scrutiny provisions and how trade deals could impact public health, services, women's economic rights, food standards, animal welfare, chemical protection standards and the environment.

Scrutiny

Modern trade agreements affect huge swathes of public policy, including consumer and workers' rights, environmental legislation, food standards, health, public services and international development. It is therefore critically important that trade deals are developed democratically. The current treaty scrutiny system - as outlined in the Constitutional Reform and Governance (CRAG) Act - is inadequate, and has been criticised by five Parliamentary committees.¹ The Trade Bill should be amended to provide a trade deal scrutiny framework which includes:

1. Before negotiations: a debate and vote for MPs on the government's negotiating objectives
2. During negotiations: transparency through the release of negotiating texts and regular updates to Parliament
3. After negotiations: a vote for MPs on a final deal, with the power to seek amendments.
4. At every stage of the process: there should be public consultation and meaningful engagement with civil society, as well as an independent impact assessment which looks beyond economic metrics, including impact on the environment, human rights and developing countries.
5. A guaranteed role for the devolved administrations

¹ See respective reports from the [International Trade Committee](#), the [Constitution Committee](#), the [Scottish Affairs Committee](#), the [Lords EU Committee](#) and the [Joint Committee on Human Rights](#)

TJM is supporting **Labour's Reasoned Amendment (Keir Starmer)** as well as **Caroline Lucas's**, which both address these scrutiny concerns. [See the amendments here.](#)

Protecting the NHS

Trade deals have the potential to negatively impact on health services. While the Government has repeatedly pledged that the NHS is “not on the table” in trade negotiations, leaked documents detailing conversations between UK and US negotiators revealed that health services had been discussed, including US “probing” on the UK’s “health insurance’ system”,² and the US has made clear its desire for the UK to change its drugs pricing mechanism. The Trade Bill should be amended to protect the NHS. This amendment should include:

1. Specific carve-out for the NHS, all health-relevant services and regulation: it would be illegal for the government to conclude a trade agreement which altered the way NHS services are provided, liberalised healthcare further, or opened up parts of the NHS to foreign investment.
2. No use of negative listing: these clauses require that all industries are liberalised in trade agreements unless there are specific carve-outs. It is not always easy to define what services count as health services: for instance, digital services may seem irrelevant to health, but NHS data management and GP appointments are increasingly digitised. Negative lists therefore make it harder for governments to regulate and provide health services.
3. No standstill clauses or ratchet clauses: these provisions mean that, after the trade deal has been signed, parties are not allowed to reduce the level of liberalisation beyond what it was at the point of signature. This can make it difficult to reverse NHS privatisation.³
4. No ISDS: Investor-State Dispute Settlement (ISDS) clauses in trade agreements allow private investors to challenge government policy when this affects their profits. Failure to abide by these clauses can result in legal challenge from the trade partner, or if there is a separate ISDS clause, challenge from private investors (see ISDS section below).
5. No changes to drugs pricing mechanism: the US has stated that they wish to challenge the NHS’s drugs purchasing model, which keeps prices low. This could also happen through IP and non-patent exclusivities. A trade deal must not be used to facilitate this.

Protecting food standards

Trade deals can put pressure on food standards and lead to the import of low-standard food. The US administration has made clear that it wants the UK to lower its food and animal welfare standards to allow the export of products currently banned in the UK. The Trade Bill should be amended to protect these standards. This amendment should include:

1. A ban on the importation of food which is produced to standards lower than those in the UK. The US and other countries have far lower animal welfare standards, and adopt practices which are illegal in the UK for health and environmental reasons, including chlorine-washed chicken, hormone-fed beef, the use of various pesticides and GM crops.
2. No regulatory cooperation on food and animal welfare. Trade deals increasingly include provisions with the aim of aligning standards, which could lead to lower standards.
3. No regression from existing standards. An independent body should be established to assess new regulations to ensure that they do not lead to lower outcomes.
4. Enshrinement of the Precautionary Principle. This principle is fundamental to EU policymaking but there is limited provision for it in UK law, to ensure it applies to food standards.

For more information please contact David Lawrence, david@tjm.org.uk / 07769665187

² See full leaked documents hosted on [Global Justice Now's website](#)

³ See TJM's report '[Trading Up for Health](#)', January 2019