

# Trade bill

## Why MPs must act now or risk threat to parliamentary sovereignty

November 2017



The government has introduced a new trade bill to parliament. This is supposed to help implement an independent trade policy, but it does nothing to improve democratic accountability. This means that parliament will continue to have no role in scrutinising trade agreements. This briefing outlines why the trade bill needs to be changed to ensure that the UK's trade policy is subject to democratic accountability.

*If the trade bill passes in its current form, Westminster MPs will have less influence over any EU-UK trade deal than MEPs in Brussels or even deputies in Belgian regional assemblies.*

### Five reasons to amend the Trade Bill

#### 1. It is undemocratic

The trade bill does nothing to rectify the fact that parliament has next to no influence over trade agreements. Currently, MPs do not set the negotiating mandate, have no access to negotiating documents and are not guaranteed a vote on the ratification of trade deals. Indeed, even if parliament passes the requisite motion to block a deal, this only delays ratification for a short period.<sup>1</sup>

#### 2. This might be the only chance to legislate on trade

The government is attempting to convey the impression that the trade bill is merely an administrative piece of legislation that will enable the government to transition a few matters from the EU to the UK. However, the reality is that the government may not give MPs another chance to legislate on trade and that parliament will continue to lack any serious power over the negotiation and ratification of trade agreements.

#### 3. Consultation has been a sham

The trade bill was published just hours after the consultation process around the preceding white paper closed. This means that public input was not taken into account in the drafting of this bill.

#### 4. It's about much more than trade

Trade deals used to be about trade (tariffs, quotas etc). Not anymore. Modern trade agreements impinge upon areas of legitimate domestic public policy that are seemingly little to do with trade. For example, questions on how we run the NHS, health and safety regulations, labour standards and even immigration policy can be dictated by trade agreements. This is why trade agreements need

proper parliamentary oversight and a full public consultation.

#### 5. It's bad for developing countries

The trade bill proposes to copy and paste the highly controversial EU Economic Partnership Agreements (EPAs) with developing countries. EPAs have been criticised for extracting trade concessions from developing countries that threaten to damage their economies. They have been opposed by a number of countries in Africa, with President John Magufuli of Tanzania calling them 'a form of colonialism'. They are not a model the UK should be emulating when it gets full control of its trade policy.

### What you can do

**As a legislator, you have an opportunity to ensure that the trade bill enshrines proper democratic accountability over trade policy. We need to ensure:**

- The right of parliament to set a thorough mandate to govern each trade negotiation, with a remit for the devolved administrations
- The right of the public to be consulted as part of setting that mandate
- Full transparency in negotiations
- The right of parliament to amend and to reject trade deals, with full debates and scrutiny guaranteed and a remit for the devolved administrations
- The right of parliament to review trade deals and withdraw from them in a timely manner

**Parliamentary support is growing behind these demands. At the time of writing, 109 MPs have signed EDM 128 which outlines these five points. Please join them and ensure that parliament has a meaningful role in overseeing and approving trade agreements.**

## Models for democratic trade

The UK has not had to keep up with developments in procedures for democratic oversight of trade agreements over the last few decades and if we are now to have an independent trade policy, we need to catch up. The trade bill could present a unique opportunity to adopt better democratic practices. Here is a short selection of examples of how other countries deal with key issues like transparency and accountability:

### **Belgium & Canada: Involving devolved administrations**

The way Belgium deals with trade agreements when national approval is needed could be a model for involving devolved administrations in trade negotiations. The Walloon, Flemish and Brussels parliaments must vote to approve any such agreement. Similarly, in Canada, trade agreements are not implemented in provinces without their consent. Canada has also made a start on provincial representation during negotiations themselves: each Canadian province had observers in trade delegations during the CETA (EU-Canada) negotiations.

### **Denmark: Giving Parliament full oversight of trade negotiations**

Denmark requires the government to gain a mandate from the Danish parliament's European Affairs Committee prior to developing positions in the European Council on important issues including trade. The UK could implement a similar system to ensure that the UK parliament's House of Commons International Trade Committee (or a separate trade scrutiny committee) approves mandates for trade negotiations. The Netherlands and Finland have similar procedures that are politically rather than legally binding.

### **The EU and various international bodies: Greater transparency during negotiations**

Minimal transparency has been required in the EU on trade for many years. The Commission is required to keep the European parliament informed on negotiations at all stages and with

time to take the parliament's views into account. However its existing measures have been much criticised, and the EU has taken steps towards greater transparency during trade negotiations in recent years. For example, the EU has released some negotiating texts and given MEPs access to restricted documents in a secure reading room. The EU's 'Trade for All' strategy also commits the EU to disclose negotiating mandates immediately after their adoption. These steps have still been considered inadequate by ombudsmen, and the UK can do better than this. We could become world leaders on transparency and emulate the many multilateral negotiation processes, such as those within the UN Framework Convention on Climate Change, that publish full negotiation texts publically.

### **The USA: A more comprehensive consultation process**

The USA has a far more comprehensive system for consultation on trade than the UK. There is a mandatory 90 day consultation process and a system of 28 advisory committees and around 700 citizen advisors who have access to confidential information and comment on draft agreements. This process is far from perfect and has been criticised for giving lobbyists too much influence in developing US trade policy. However, there is no reason why the UK could not implement safeguards to ensure that all stakeholders, including civil society, trade unions, small businesses and consumer advocates, are properly and equally consulted.

### **EU and US: Binding votes on trade**

Both the European parliament and the US Congress automatically get a vote before a trade deal can be finalised. The UK must, at minimum, grant Westminster the same powers.

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<sup>1</sup> Additional motions would have to be passed to delay ratification for further periods.