

Fairtrade Foundation Briefing – Trade & Customs Bills, Report Stage

This briefing has been written to support MPs in their preparation for the report stage of both the **Taxation (Cross-Border Trade) Bill** – also known as the Customs Bill, and the **Trade Bill**. At time of writing, the date for report stage of the Customs Bill has been set as **Monday 16th July 2018** and report stage of the Trade Bill will be on **Tuesday 17th July 2018**.

This briefing considers both of these Bills, as taken together they aim to prepare the UK to become an independent trading nation in the event of leaving a Customs Union with the EU. We are conscious that this is still a matter of some political debate, and that recent proposals put on the table an option of ‘a common rulebook’ in relation to goods including agricultural products. The proposal on a facilitated customs arrangement would still enable the UK to strike its own trade deals and set its own tariffs, albeit in a context of regulatory alignment on goods, and by default, Fairtrade products.

The Fairtrade Foundation has not taken a firm view on the Customs Union debate. Our aim, whether the UK applies the common external tariff or not, is **to ensure that policy decisions and trade deals improve prospects for developing countries and producers**. We are conscious however, that any increase in friction at borders with the EU 27, or changes to tariffs or rules of origin, may be a significant impediment to some of our Fairtrade licensees. We are currently undertaking work with them so that we can fully understand the potential impacts of different EU exit options, on trade in different Fairtrade commodities including coffee, bananas, flowers, sugar and chocolate.

Summary of Key Issues for Report Stage:

We are asking MPs to support the following amendments:

- The **Customs Bill** as drafted, makes no reference to sustainable development, and would allow tariff changes to take place without regard to their impact on developing countries. We hope that there may still possibility of amendment, to **include “sustainable development”** in the criteria to which the Secretary of State must have regard to in Part 1: 8 (5), and Part 2: 39 (4).
- The **Trade Bill** as drafted, fails to reform the democratic process for the negotiation, scrutiny and approval of future trade deals. It would mean that the UK government could commence trade negotiations, and even sign and ratify trade deals during a transition period (from April 2019), without a requirement for public consultation, impact assessments, and without any formal role for parliament. MPs would have less say over future UK trade deals than MEPs currently have over EU-wide deals. Please support amendment of the Bill, to incorporate the elements needed for a **transparent and inclusive future trade policy**, as set out in amendment NC3.

1. The Taxation (Cross-Border Trade) Bill, or Customs Bill¹

The **Customs Bill** intends to grant powers to the UK government to set tariffs and apply other financial measures post-Brexit. Among other things, the Bill also proposes the establishment of a UK preference scheme, rolling over the EU preference scheme², and within that, enshrining the principle of duty-free, quota-free access for the Least Developed Countries (LDCs) in law. The government plans to set out details of a new preference scheme in future regulations, and we urge MPs to engage with these plans once the regulations are published, in order to maximise positive outcomes for developing countries. Our hope is that there will be scope to amend the list of qualifying countries (currently set out in Schedule 3), with expanded eligibility criteria which goes beyond a simple 'GDP per capita' approach.

Our primary concern at this stage is that the Bill would enable both import and export duties to be set without any regard to development impact. This is highly problematic given the high dependence of some economies on the UK market, and given the history that exists in relation to products such as sugar and bananas. For example, a unilateral reduction in tariffs applying to bananas imports could significantly harm the banana-exporting countries of the Caribbean, many of whom are struggling to compete with neighbouring exporters.

The Bill does already refer to a set of criteria to which the Treasury must have regard when considering the rate of import duty and export duty to impose, (Part 1: 8 (5), Part 2: 39 (4)), which currently includes:

- (a) the interests of consumers in the United Kingdom;
- (b) the desirability of maintaining and promoting the external trade of the United Kingdom;
- (c) the desirability of maintaining and promoting productivity in the United Kingdom; and
- (d) the extent to which the goods concerned are subject to competition.

A point could still be added to ensure the criteria includes the impacts on sustainable development.

This would be consistent with the Trade White Paper and its chapter on 'Supporting developing countries to reduce poverty'³, as well as with the UK's commitment to achievement of the UN Sustainable Development Goals (SDGs), otherwise known as the Global Goals.

¹ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0128/18128.pdf>

² The EU currently operates a three tier preference scheme comprising the 'Everything But Arms' (EBA) arrangement, offering DFQF access to the LDCs, the Generalised System of Preferences (GSP) and the GSP+ which offers preferential access to those developing countries that have ratified 27 international conventions on human and labour rights, good governance, and environmental protection. Other developing countries can also access the UK market via reduced tariffs as a result of existing EU bilateral agreements.

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654714/Preparing_for_our_future_UK_trade_policy_Report_Web_Accessible.pdf

2. The Trade Bill⁴

The **Trade Bill** intends to grant powers to the government to 'roll-over' trade deals signed between the EU and another country or group of countries. As drafted, the Bill does not set out a process for agreeing future trade deals but given the government's stated intention to negotiate, sign and ratify new trade deals in a transition period (i.e. from April 2019), we believe that a revised process must be brought forward in legislation as soon as possible. We are unaware of any additional forthcoming trade legislation.

Organisations ranging from the International Chambers of Commerce⁵, to the Hansard Society⁶ and the Trade Justice Movement⁷, have pointed out that the current procedure for the agreement of treaties is a 'negative' one which does not automatically trigger any parliamentary debate, scrutiny or votes. And yet in cross-party polling last year (weighted to reflect current political composition) carried out for Fairtrade Foundation & the Trade Justice Movement by Dod's Research, 86% of MPs agreed that there must be parliamentary scrutiny and approval of new trade and investment agreements. As things currently stand, MPs would have less power over future UK trade deals, than MEPs currently have over EU agreements. They would also have substantially less control over trade than their counterparts in countries like Canada, Australia, the United States and New Zealand. Moreover, there is currently no legislative requirement to undertake an impact assessment, to undertake public consultation, or to ensure transparency in negotiations.

All of these issues are currently addressed in amendment NC3⁸ and we would urge MPs to support reform along these lines.

We are also supportive of proposals to strengthen the Bill by ensuring that future trade deals are consistent with existing international commitments, such as the SDGs, international climate commitments and ILO conventions.

In relation to the roll-over of existing agreements, this is something broadly welcomed by the Fairtrade Foundation. Given the significance of trade with the UK for a number of developing countries, such as Belize and Kenya, it is important for their market access to be protected and guaranteed. However, we have suggested that the UK government could consider alternatives to the problematic 'Economic Partnership Agreements' (EPAs) – such as an expansion of its proposed unilateral preference scheme.

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⁴ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0122/18122.pdf>

⁵ https://cdn.shopify.com/s/files/1/2992/1976/files/Trade_Governance_Model_-_web_version.pdf?9421482943105580904

⁶ <https://www.hansardsociety.org.uk/blog/trade-bill-highlights-parliaments-weak-international-treaty-role>

⁷ https://www.tjm.org.uk/documents/reports/TJM_SecuringDemocracyInUKTradePolicy_2017_web.pdf

⁸ https://publications.parliament.uk/pa/bills/cbill/2017-2019/0122/amend/trade_rm_rep_0705.pdf