

Trade Bill: Liam Fox MP, Secretary of State for International Trade's statement fails to give MPs a 'meaningful say' over post-Brexit trade

Key points

- MPs will not get a vote on future trade deals
- Devolved administrations remain shut out
- Limited transparency measures 'step forward but not enough'

Recommendation

Support amendment NC3 of the Trade Bill. The Parliamentary scrutiny and consent methodology outlined by amendment NC3 provides a meaningful and effective framework essential for UK trade policy to be fit for a modern democracy.

Oversight and transparency

Liam Fox MP, the Secretary of State for International Trade, made a statement to the house on Monday 16 July, on a transparent and inclusive future trade policy. The fact that he made such a statement is welcome and overdue, however his proposals largely leave the status quo unchanged. Powers currently being held by European institutions will be returned to the UK after leaving, but rather than transferring them to Parliament they are being retained by the executive, creating a democratic deficit.

The Secretary of State has omitted the most vital element which is that for Parliament to have meaningful oversight of trade deals, they need a guaranteed vote on the final deal. Without this all other measures are at risk of being mere window-dressing.

Instead the Secretary of State says the Constitutional Reform and Governance Act 2010 is all that is needed at the end of a trade deal. However this is an inadequate rubber stamp. It gives MPs 21 days to object to a deal, but neglects to give them a way of objecting. By contrast MEPs in Europe and members of the US Congress get an automatic vote. Our MPs need the same level of 'hard power' as the legislatures of our major trading partners.

It is appreciated that the government has understood the need for scrutiny and therefore for Parliament to be kept informed. But the government needs to make a stronger commitment to transparency. We know from previous negotiations that 'updates' can mean virtually nothing but spin. As a minimum MPs must be able to see negotiating texts.

Transparency builds engagement, trust and understanding, and it should form the basis of good trade policy. Trade deals are not commercial negotiations but public policy negotiations and they should be treated as such. Transparency should be embraced rather than treated as a risk.

Other aspects

We welcome the commitment that where implementing legislation is needed for trade deals, it will be primary not secondary, giving MPs greater scrutiny. However this is limited in reality as many of the effects of a trade deal do not require implementing legislation. For instance, ISDS or corporate courts, which were extremely controversial in failed negotiations between the EU and US, TTIP, do not require any implementing legislation.

We welcome the government's confirmation that there will be a process to set out their ambitions before embarking on a new trade deal, including undertaking scoping assessments, public consultations and publishing impact assessments. However recent assessments by the government on trade have been lop-sided, focusing purely on the impact for exporters, whilst ignoring wider economic impacts, social, environmental, gender and regional impacts and the effect on workers' rights.

This statement contains nothing of substance for devolved administrations and legislatures and is highly disappointing in this regard. We know what such deals can mean for different regions and the extent to which they can affect devolved responsibilities. It is not acceptable that no real commitments have been made on this aspect.

Implications for the Trade Bill

This statement indicates the importance of putting a framework for democratic oversight of trade deals in place as soon as possible. Although the Secretary of State seeks to make a distinction between replacements for existing EU trade deals and future trade deals, in fact such a framework is needed for both. New deals that replace EU deals will have substantive changes to them that should be scrutinised, while trade talks and working groups for 'future' trade deals are already underway.

Legislative changes on scrutiny and transparency need to be incorporated in the Trade Bill, so that they can start being part of routine procedure in trade policy.

The framework outlined by amendment NC3 would provide a meaningful and effective framework and is essential if UK trade policy is to be fitted for a modern democracy.

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https://waronwant.org/sites/default/files/TJM_TradeBillConstitutionalImplications_2018_web.pdf