

Scotland's role in future UK trade arrangements

Trade Justice Scotland Coalition



Who we are

The Trade Justice Scotland Coalition is an alliance of 27 Scottish organisations – including trade unions, NGOs and local activist groups representing tens of thousands of Scottish citizens. The coalition first came together in 2015, as part of the Europe-wide movement that opposed the EU-US trade deal TTIP. We continue to work together now, focusing on post-Brexit trade deals and in particular ensuring that they are underpinned by a set of ethical principles and that there is a transparent and democratic process for scrutinising and approving trade deals.

The UK Trade Bill: what role for Scotland in negotiating and ratifying trade deals?

As it stands, the UK Trade Bill (after being voted through the House of Commons in July) contains nothing that would give the Scottish government or the Scottish parliament the right to scrutinise or amend trade deals negotiated by the UK government, and no role in the ratification of those deals. The UK government has argued that it is not necessary because this Bill covers trade deals that it expects to simply 'roll-over' after Brexit.

It is becoming increasingly clear, however, that a 'roll-over' of all of those deals is very unlikely. Therefore, we argue that this Bill is the **right place** to set a democratic framework for negotiating and passing trade deals, and that the Scottish parliament must be included in that.

We are not alone in our call. Earlier in the summer, an informal alliance of organisations including the British Chambers of Commerce, Confederation of British Industry, Federation of Small Business and the Institute of Export and International Trade published a paper entitled: 'A Trade Model That Works for Everyone' in which they called for "the involvement of the devolved administrations and legislatures throughout the process, including their full involvement in the processes of mandate preparation, oversight and approval" of trade deals.¹

Why should the Scottish parliament have a say over trade deals?

- Modern international trade deals have impacts beyond tariffs and quotas, with their effects extending into the realm of public policy.
- While trade policy itself is reserved, many areas of policy that trade deals may impact on are devolved, including: agriculture, education, human rights, procurement, local government and healthcare.
- As trade deals encroach into the realm of public policy, this could limit or have a chilling effect on the Scottish parliament's ability to pass legislation in the interests of the Scottish people and the environment.
- Scotland's public services might also be impacted by the decisions made during trade deal negotiations.
- Were a foreign investor to use the ISDS in a trade agreement to sue the UK for the act of a devolved administration, then the UK government would fight the case but the devolved administration would be required to pay the legal costs and any compensation awarded if the case were lost.ⁱⁱ

It is therefore essential that members of the Scottish parliament are given the ability to scrutinise, influence, amend and if necessary withhold their consent for trade deals whose negative impacts they judge to outweigh the benefits.

We believe that the Trade Bill offers an immediate and important opportunity to set a more democratic framework for all post Brexit trade deals and that it should be amended accordingly.

If the Trade Bill is not amended to put in place a transparent and democratic framework, and a formal role for the Scottish parliament and government, then we suggest that the Scottish parliament should withhold its consent for the Bill

The pan-European campaign against TTIP showed how sceptical the public is of trade deals that are negotiated in secret and not subject to public or parliamentary scrutiny.

What might post Brexit trade deals look like?

Last week a group of radical, free market, free trade think tanks published a paper setting out principles for what they consider the ideal UK-US trade deal to be.ⁱⁱⁱ The report paper argues for a UK-US trade deal to be "more liberalising than any other free trade agreement in the world". It also advocates: scrapping the precautionary principle, that has guided much EU regulation on GM foods, chlorine-washed chicken, hormones in meat, pesticides and chemicals in cosmetics; opening the NHS up to foreign competition; and financial deregulation. And researchers from these think tanks have had exceptional access to ministers in the UK Department for International Trade.^{iv}

Were the UK government to pursue a US-UK trade deal like this, we believe it could present a serious threat to the ability of the UK and Scottish parliaments to set and uphold high standards on food, farming, public health, workers rights and the environment.

What role should the Scottish parliament and government have?

There are many examples from other countries where sub-nation states are involved in different ways. We detailed some of them in our evidence to the Finance and Constitution committee's inquiry into the Trade Bill: <http://scotlandagainsttip.org.uk/wp-content/uploads/Trade-Justice-Scotland-coalition-submission-to-FC-committee-inquiry-into-Trade-Bill.pdf>

We believe that scrutiny of trade deals should include:

Before negotiations begin:

- Impact assessments looking at the social, economic, human rights, environmental, labour and gender impacts in Scotland of the proposed deal
- Public consultation by the Scottish government that is then taken into account when considering the negotiating mandate
- A joint ministerial committee on trade to include all the devolved administrations that would need to consent to any draft mandate for a trade deal before negotiations began.

During negotiations:

- A negotiator from each of the devolved nations to be on the UK negotiating delegation
- MSPs to have a legal right to access the negotiating texts, and Scottish parliament committees to be given the role of scrutinising any trade negotiations from the perspective of the impact they may have on devolved powers and territories.

At the end of negotiations:

- The Scottish parliament as well as the Welsh and NI assemblies to be given a formal role in ratifying a final trade deal, in relation to any impacts it may have on their powers and territories.

Trade Justice Scotland Coalition welcomes the Scottish government's recent paper on Scotland's role in the development of future UK trade arrangements and supports its recommendations.

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ⁱ <https://www.tjm.org.uk/documents/briefings/2018-06-28-A-Trade-Model-that-Works-for-Everyone-Final-02.pdf>

ⁱⁱ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-15/31198/>

ⁱⁱⁱ See the CATO institute website: <https://www.cato.org/publications/white-paper/ideal-us-uk-free-trade-agreement-free-traders-perspective>

^{iv} The Guardian 18/9/18 <https://www.theguardian.com/politics/2018/sep/18/rightwing-thinktanks-unveil-radical-plan-for-us-uk-brexite-trade-deal-nhs>
