

## **Agriculture Bill Commons consideration of Lords amendments: Briefing for MPs**

8 October 2020

### **Summary**

**This briefing outlines the rationale for priority amendments that the Greener UK coalition and Wildlife and Countryside Link are supporting at Commons Consideration of Lords Amendments. These amendments are:**

- Amendment 16 securing legal safeguards on import standards
- Amendment 18 on an improved Trade and Agriculture Commission
- Amendment 1 securing join up between agricultural policy and environmental goals

### **We also support the following amendments:**

- Amendment 9 on improving the overall sustainability of the food system
- Amendment 17 on climate mitigation targets for agriculture
- Amendment 11 on restricting the use of pesticides near homes, offices and public buildings

### **Amendment 16 on import standards**

In order to increase the resilience and sustainability of UK food and farming, and achieve environmental and animal welfare goals, it is vital that farmers in the UK are not undercut by imported food produced to lower standards. In some cases, imported products may have been produced in ways which would be illegal in the UK, creating unfair competition and limiting the capacity of UK farmers to deliver public goods such as healthy soil and climate change mitigation.

The 2019 Conservative manifesto promised that the government would not compromise on the UK's high environmental protection, animal welfare and food standards in trade negotiations, and ministers have since repeated these assurances on several occasions. However, there has been no detail on how this commitment will be upheld in practice.

Amendment 16 would enshrine this manifesto commitment in law. This requires the Secretary of State to make a statement to parliament affirming that any food or agricultural products imported under the agreement will have been produced to equivalent standards to those required of UK producers. It also gives MPs and Peers a vote on chapters of any new trade agreements which contain provisions relating to the import of food and agricultural products.

We urge the government to accept these amendments for the following reasons:

### **The need for a legal safeguard on standards**

A series of official reports and comments from representatives of trading partners reveals other countries are demanding the UK lower its food standards. For example, the United States Trade Representative told US Congress "we'll either have fair access for agriculture

or we won't have a deal with either [the UK or the EU]".<sup>1</sup> The USA's UK negotiation objectives state they are seeking "regulatory co-operation", "to remove expeditiously unwarranted barriers that block the export of U.S. food and agricultural products", and "rules that further encourage the adoption" of lower food standards.<sup>2</sup>

As it currently stands, future changes to food standards, or authorisation of currently banned foods, will come into law without a vote in Parliament. During Lords report stage of the Agriculture Bill, Defra minister Lord Gardiner made the following commitment: "Any decisions by Ministers to authorise regulated products will require a negative resolution SI in each of the four UK countries to give legal effect to the authorisation."<sup>3</sup>

Parliamentarians can only vote retroactively on negative resolution SIs within 40 days, and only to reject the entire SI (which could contain other favourable regulations). Changes are to SIs are easily made, such as the recent deletion of hundreds of standards governing antibiotic use in farm animals, and are rarely rejected.<sup>4</sup>

Moreover, under current proposals, trade agreements will be negotiated behind closed doors, with no opportunities for the public or parliamentarians to influence the provisions they contain. The CRAG Act (2010), containing the UK's treaty ratification process, only gives MPs a vote to delay, not reject, trade agreements over 21 day periods and requires government to offer parliamentary time or the opposition to use their limited number of days for debate.

### **Overwhelming public support for high standards in law**

Upholding high standards for food and agriculture products is clearly supported by an overwhelming majority of the public. A recent poll found 95 per cent felt it is important to uphold standards in a deal with the USA.<sup>5</sup> Over 1 million members of the British public have signed a petition calling on the government to put into law rules that prevent food being imported to the UK which is produced in ways that would be illegal here.<sup>6</sup>

### **Fulfilling the Brexit promise of going further than the EU**

It has been pointed out that amendment 16 goes further than the free trade agreements the UK has through the EU, by requiring imports under trade agreements to meet equivalent standards to those expected of UK farmers. On this basis we think the government should welcome the amendment as providing a major benefit of leaving the EU. The Prime Minister himself has previously told MPs that "The advantage that we have in coming out of the EU, ... is that we can go further [on environmental and social protections]."<sup>7</sup>

### **Compatible with WTO rules**

Contrary to some claims, the implementation of this amendment need not go against WTO rules. The WTO provides a baseline for settling trade disputes in the absence of a bilateral or multilateral trade agreement. Trade agreements can build on WTO rules and the UK government should use these to agree bespoke approaches to regulating imports. Amendment 16 is narrowly focussed only on imports that result from new free trade agreements and would not apply universally.

Furthermore, WTO rules contain important freedoms and exemptions that allow countries to set certain import restrictions based on high standards as long as they are scientifically reasoned, consistently applied to imports and domestic goods, and are necessary to achieve a legitimate policy objective.<sup>8</sup> A carefully designed and justified system of standards, with legal standing in primary legislation through amendment 16, would allow

the UK to lead to world in tackling climate change and nature's decline, in addition to animal welfare and public health challenges. Many other countries apply import restriction on this basis using standards above the international minimum.

### **Ability to sign better trade agreements**

It has been claimed that amendment 16 would prevent the UK from concluding new Trade Agreements. This is not the case. The amendment simply requires the government to report to parliament on how it has ensured that any food imported under the agreement will meet equivalent standards to those applicable in the UK. These standards can therefore be different, but must provide similar levels of protection for the environment, animal welfare, and consumer health and safety. This reporting exercise would need to be carried out by the government in any case in order to fulfil the 2019 Conservative Manifesto commitment not to compromise on the UK's high environmental protection, animal welfare and food standards in trade negotiations.

### **Amendment 18 on an improved Trade and Agriculture Commission**

Amendment 18 complements amendment 16 and would provide important additional scrutiny. It would expand the remit of the Trade and Agriculture Commission to scrutinise new trade agreements before they are ratified to report and make recommendations to parliament on these. This is a vital scrutiny function which the current Commission lacks. It puts the Commission on a statutory footing and increases its independence.

The Department for International Trade's current 'Trade and Agriculture Commission' falls well short of what is required, and its weak nature and make-up has acted as a strong disincentive for environmental NGOs in the Greener UK coalition to engage with it because:

- There is no clarity on how ongoing monitoring and review of import standards will be undertaken beyond the lifespan of the Commission. It will only exist for six months and lacks ties to legislation or specific negotiations, disconnecting it from the processes it is meant to inform
- It is advisory only, with no requirement for the government to even respond to its recommendations
- The expertise of its commissioners is far too narrow, lacking representation for environmental, animal welfare and consumer groups
- Without a statutory basis, the Commission may struggle to secure the authority it needs to command public confidence

Given the importance of the functions outlined in the amendment, the urgency for scrutiny of new trade deals which are already being negotiated, and the relatively modest resources needed for the enhanced Commission to fulfil the functions outlined, there should be no barriers to this amendment being accepted. We urge the government to accept this amendment to give the Trade and Agriculture Commission the independence, legitimacy and remit it needs in order to scrutinise trade agreements and make recommendations on how the manifesto commitment to uphold standards can be achieved in practice.

## **Amendment 1 on linking payments to the Environmental Improvement Plan**

This amendment corrects a major failure of the EU Common Agricultural Policy (CAP) by providing greater coherence between the Agriculture Bill and England's long term environmental goals. The Agriculture Bill provides for multi annual financial assistance plans, including identification of strategic priorities for assistance, regard to these strategic priorities when setting budgets, and monitoring of the impact of financial assistance given. However, there is currently no requirement to take the goals and ambitions of the 25 Year Environment Plan and the Environment Bill into account when setting strategic objectives for financial assistance. This is a major omission.

This means it is entirely possible for the Secretary of State to set strategic priorities for financial assistance under the Agriculture Bill that have no relevance to, or indeed undermine, the key environmental strategy that should be guiding all investment in the natural environment. This presents a risk to environmental recovery since the financial assistance schemes created by the bill, particularly the Environmental Land Management scheme, will be one of the main mechanisms for funding and achieving the goals of the 25 Year Environment Plan.

The CAP also failed to make this structural link to wider objectives, allowing it to undermine wider environmental ambitions. Moving away from the CAP presents a timely opportunity to rectify this. Amendment 1 would place a duty on the government to take into account the country's Environmental Improvement Plans when setting priorities for financial assistance schemes, ensuring policy coherence. Environmental Improvement Plans will be created by the Environment Bill, and the first one will be the existing 25 Year Environment Plan.

The government clearly intends to design the new Environmental Land Management Scheme in such a way that it supports delivery of the 25 Year Environment Plan. However, the failings of the CAP highlight that good intentions do not always lead to the desired outcomes and that creating structural links between policy areas in law is important.

## **Amendments 9 and 17 on sustainability and climate targets**

Similar to amendment 1, amendment 17 would link agriculture policy to the country's commitments and ambition to tackle the climate emergency. Amendment 9 creates a link with wider food policy and increasing the sustainability, resilience, and health of food production and consumption. It requires the government to come forward with proposals on how to make food production more sustainable, improve local food supply chains, and improve people's dietary health. We strongly support the current focus in the bill on paying farmers for delivering environmental public goods. But agriculture and related land management exist in a wider food system, and the new financial assistance schemes created as a result of the bill are just one piece of the puzzle to improve this system for people, the environment, and animals. This amendment would fill in the other pieces of the puzzle, ensuring that joined up policy is created to address sustainability across the whole food system.

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## Endnotes

<sup>1</sup> Ambassador Lighthizer testimony to US Congress, 17 June 2020, available here <https://twitter.com/faisalislam/status/1273364932722130945?s=20>

<sup>2</sup> United States-United Kingdom Negotiations: Summary of Specific Negotiation Objectives, USTR, February 2019, p2 [https://ustr.gov/sites/default/files/Summary\\_of\\_U.S.-UK\\_Negotiating\\_Objectives.pdf](https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf)

<sup>3</sup> Lord Gardiner of Kimble, 22 September 2020, <https://hansard.parliament.uk/Lords/2020-09-22/debates/1A030753-AD32-4AEA-A626-93299698C2EC/AgricultureBill#contribution-D2CEAEA9-0208-47E6-BA98-D96F2DCADF5C>

<sup>4</sup> <https://www.dailymail.co.uk/news/article-8631683/Restrictions-use-antibiotics-UK-farm-animals-watered-help-trade-deal.html>;  
<https://www.instituteforgovernment.org.uk/sites/default/files/publications/trade-and-regulation-after-brexite.pdf>

<sup>5</sup> <https://www.itv.com/news/2020-06-25/majority-of-britons-oppose-weakening-of-food-standards-under-uk-us-trade-deal>

<sup>6</sup> <https://www.nfuonline.com/news/latest-news/food-standards-petition/>

<sup>7</sup> Prime Minister Boris Johnson MP, 3 October 2019, <https://hansard.parliament.uk/Commons/2019-10-03/debates/585F872D-9372-4448-A32F-5CEC0FD49FB7/BrexitNegotiations>

<sup>8</sup>The WTO [GATT Article XX](#) allow countries to put in place certain import restriction measures designed to protect 'public morals', human, plant or animal health, or a limited natural resource. These exemptions could be used, for example, to defend the UK's world-leading animal welfare standards such as the ban on chlorinated chicken.

[The SPS agreement](#) respects the freedom of each country to set a level of protection that country deems necessary, including import restrictions based on high standards, as long as the same standards are applied domestically and the restrictions are scientifically justified. This allowance could be utilised to maintain, for example, UK pesticide standards.

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