Traidcraft

1. Traidcraft is one of the UK’s leading fair trade organisations. Our mission is to fight poverty through trade, practising and promoting approaches to trade that help poor people in developing countries transform their lives. Traidcraft was established in 1979 and comprises two operational organisations: the trading company Traidcraft plc and Traidcraft Exchange, an international development charity.

2. Traidcraft plc sells more than 700 food, household, soft furnishings and clothing products from nearly 100 producer groups based in 30 countries in Africa, Asia and Latin America. It had a turnover of £11.3 million in 2015/16. Traidcraft Exchange is an international development charity, with a charitable expenditure of £2.5 million in 2015/16, whose work spans capacity building amongst producers in developing countries, promoting market access for small producers (including into the UK market), policy development and advocacy. Through its policy work, Traidcraft Exchange seeks to influence government policy and business practice in the North and the South to the benefit of the poor in the developing world.

3. Traidcraft is a member of the Corporate Responsibility Coalition, (CORE) which has commissioned research on the legal implications of Brexit for corporate accountability. This submission draws on this research provided to CORE by D Doane and J Zerk. (See http://corporate-responsibility.org/publications/research-reports/)

4. We welcome the opportunity to submit evidence to the Procedure Committee, as we are concerned that delegated powers could be used to unpick protections in a number of laws relating to environment, labour rights, and civil justice, when the UK leaves the EU.

Comments on Delegated Powers in Great Repeal Bill and Recommendations

4. Given the significance of the range of laws the Great Repeal Bill will cover it would not be appropriate to delegate powers to ministers in relation to a wide range of laws. Scrutiny by parliament is needed particularly in relation to laws relating to labour rights, civil justice, environment and trade policy.

5. The complexity of the Great Repeal Bill highlights the added value of having additional scrutiny to avoid unintended consequences of transposing or changing laws hastily.

6. We are concerned that Henry VIII powers could enable Acts of Parliament to be repealed by executive order (instead of going back to Parliament). This would make Ministers very vulnerable to excessive corporate lobbying and undue influence in seeking to water down social or environmental protections.

7. Early publication of proposed lists of primary and secondary legislation earmarked for repeal and amendment in the Great Repeal Bill is needed. Subsequently there should be parliamentary scrutiny of repeal proposals as the Bill proceeds through parliament.

8. Early publication of the government’s proposals is needed with respect to the scope of any proposed delegated powers to promulgate further regulations, the reasons why they may be required, and the procedures that will apply to their use. Safeguards with respect to the use of possible delegated powers include the following:

   a. requirements for Ministers to notify and/or consult with Parliament over the ways in which the powers are to be exercised,
   b. any specific proposals for reform
   c. time limits for use of powers.
   d. subject or purpose test, which could result in some subjects not being within scope of delegated powers.
e. type of “negative, affirmative or super-affirmative” Parliamentary procedures used for scrutiny of regulations.

9. **Judgements from European Court of Justice**
   The Great Repeal Bill should make it clear that that past judgments of the European Court of Justice with respect to the interpretation of existing social and environmental regimes will continue to form part of UK common law after Brexit.

10. Early publication of the government’s proposals on the status to be given future decisions of the ECJ would be desirable to enable time for proper public consultation and debate. For instance, it may be helpful to give courts the power to continue to refer to ECJ judgments (i.e. as “advisory” judgments) in their interpretation of transposed UK regimes originally derived from EU law.

11. Particular care needs to be exercised that secondary legislation is not lost when the “mother” European laws are repealed. To counter act this we recommend early publication as to which legislation will be saved in the Great Repeal Bill.

12. Some directly effective legislation may not make sense in a purely domestic setting, detached from the relevant EU-wide cooperative regimes (e.g. consumer regimes which provide for a right of action or appeal to the ECJ, or environmental regimes which rely on EU level regulators). When the UK leaves the EU the legal enforcement of some laws will become exposed. The guiding principles of laws already transposed into UK law may lose their link to an over-riding guiding principle which will have been set at an EU level.

13. Some laws depend on continued cooperation of other EU member states and therefore their continued applicability will depend on the exit settlement eventually arrived at. Early publication by UK government of legal analysis regarding functioning of directly effective regimes post-Brexit is needed. Subsequently there would need to be proper parliamentary scrutiny of transposition and “continuance” arrangements as the Bill proceeds through parliament. It may be that continued involvement by the UK in various other cooperative schemes, as permitted by the terms of the “divorce” arrangements, and special continuance or cooperation arrangements need to be provided for.

14. The UK will need to give careful consideration to points raised above so that UK importers, and overseas exporters will be able to efficiently bring new products to the UK market confident they have been made in a manner that respects labour rights and are safe for workers and consumers.

15. We would be grateful if members of the Procedures Committee give detailed consideration to the points raised above.

16. The contact person for this submission is Fiona Gooch, Senior Policy Adviser, Traidcraft

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