



Department
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Lord Teverson
Chair of the EU Environment Sub-Committee
House of Lords
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6 October 2020

Dear Lord Teverson,

Thank you for your letter of 16 September regarding Environment and the Level Playing Field.

I would like to thank you for outlining your position on environmental principles in the Environment Bill, and the Office for Environmental Protection (OEP). I have noted the comments you have set out in reply to my previous response. I am also grateful for your understanding that there are aspects of negotiations on which we are unable to share detail. With that in mind I will endeavour to provide further information on the points where you have requested more clarity.

Turning to the question you have raised about ways the EU's non-regression proposals go beyond the Political Declaration; first, the EU's proposed non-regression provision includes several areas not specified in the Political Declaration. For example, there is a direct reference to sanitary and phytosanitary policy, as you recognised in the Committee's previous letter on this topic. We do not consider it appropriate to go beyond the scope of what has been agreed previously. Second, the EU have proposed a dynamic non-regression commitment; this not only goes beyond the Political Declaration commitments which aim to maintain environmental standards at 'current high levels' at the end of the transition period, but we also consider it to be entirely unprecedented in the context of international Free Trade Agreements.

You asked about whether the EU's proposals include 'provisions' and 'concepts' of EU law. This is a point on which we continue to engage with the EU to clarify their non-regression proposals. Whilst we have been clear that we will not accept any role for the Court of Justice of the European Union (CJEU), we are continuing to seek reassurance on this point.

I also note the point you have raised on the effect of the Government's proposal for non-regression. However, I would reiterate that we are looking for commitments in this area like those of a normal Free Trade Agreement (FTA), with the Government's proposal reflecting the text in The Comprehensive Economic and Trade Agreement (CETA). We agree wholeheartedly with former EU Trade Commissioner Hogan: the environmental

provisions in CETA are robust, and enforceable, as well as anchored in a vast network of underlying international conventions.

In response to your questions about whether the Government has proposed alternative solutions to those in the UK's draft legal text or has considered developing non-regression provisions further, I regret that I am unable to go into detail on ongoing negotiations. However, I can assure the Committee that the Government is working constructively with the EU to find the outlines of a balanced agreement, and has continually pushed for a detailed textual discussion on the core elements of the FTA. We remain committed to working hard to reach agreement by the middle of October, and we look forward to continuing discussions with the EU, as planned.



RT HON GEORGE EUSTICE MP