



HOUSE OF LORDS

European Union Committee –
International Agreements Sub-Committee

House of Lords
London
SW1A 0PW

Tel: 020 7219 4840
Fax: 020 7219 6715
hlintl@parliament.uk
www.parliament.uk/lords

Lord Grimstone of Boscobel Kt
Minister for Investment
Department for International Trade
King Charles Street
London SW1A 2AH

21 December 2020

Scrutiny of new trade agreements

Dear Gerry,

Thank you for meeting with the Chair of the International Trade Committee, Angus Brendan MacNeil, Greg Hands and myself on 2 December to discuss future Government engagement with the Committees on new free trade agreements. I raised a few initial thoughts with you then, and the International Agreements Committee has since had the opportunity to discuss the commitments made in the Written Ministerial Statement (WMS) of 7 December on ‘Transparency and Scrutiny Arrangements for New Free Trade Agreements’.

Members are very grateful for your ongoing cooperation and helpful engagement with the Committee, and welcome the commitments made by the Government in the WMS. They provide a good starting point from which to develop a framework and practical process that will support effective scrutiny by Parliament. The UK will be making many important new trade agreements, which can be just as crucial as the laws we make in Parliament. Therefore, the ability by both the Lords’ and the Commons’ Committees to scrutinise these agreements comprehensively will be of great importance. You will be aware that the House is very keen for Parliament to have an enhanced role in scrutinising new trade agreements, voting in favour of two amendments to the Trade Bill that go beyond the scope of the WMS and which are reflected in the points we make below.¹ They are the views of the International Agreements Committee and are without prejudice to any views that may be expressed by the Commons’ International Trade Committee.

We note that the WMS makes some commitments for the start of negotiations but falls somewhat short of those made by the previous Government in its Command Paper *Processes for making free trade agreements after the United Kingdom has left the European Union*. As regards parliamentary scrutiny of negotiating objectives and impact assessment documents, the Command Paper stated that “We will ensure that Parliament has a role in scrutinising these

¹ <https://publications.parliament.uk/pa/bills/lbill/58-01/128/5801128-R-I.pdf>

documents so that we can take its views into account before commencing negotiations.” This sentence is missing from the WMS and the Committee would wish to see this commitment reinstated to increase transparency and help inform the public debate at the start of negotiations. A debate on the negotiating objectives ahead of the UK’s application for accession to the CPTPP, for example, could provide a test case for future agreements. Of course, should Lords’ Amendment no.6 be accepted by the Government, this would address the scrutiny gap.²

The Committee welcomes the commitment to private briefings by Ministers and is very grateful you have personally continued to make yourself available to privately speak to us. We also welcome the commitment to “Round Reports”. While acknowledging there may be certain sensitivities around the negotiations, we would urge the Government to ensure that these reports contain a meaningful level of detail to allow the Committee to perform its scrutiny functions effectively.

The Government has reiterated its commitment to give the Committees confidential access to the draft treaty text “a reasonable time” before laying an agreement under CRAG. We would like to emphasise that early access will be particularly important for the upcoming US, Australia and New Zealand agreements, for which—unlike the Japan agreement—there will be no underlying EU agreements to refer to and compare the text against.

Effective scrutiny also requires that those who are affected by trade agreements and experts have the chance to comment on the consequences of any agreement. While “extensive stakeholder engagement” on trade negotiations by the Government is welcome, it is imperative that specified stakeholders also have early sight of agreements to enable them to form a view and feed into parliamentary scrutiny of the agreements. This will be particularly relevant where there is no underlying EU agreement serving as a comparator and baseline. As a starting point, it would be helpful if we could agree that we can approach members of the TAGs and Specialist Advisers serving the Committee to discuss the contents of any draft text. There may be occasions where we may wish to approach experts who are not part of the TAGs, and it would be useful to discuss further how this could be achieved in a way that meets your concerns about the risks attached to the sharing of confidential texts.

Although the Government has committed to scheduling a parliamentary debate on conclusion of the negotiations, subject to parliamentary time, we believe that this commitment should be strengthened in line with Lords’ Amendment no.12 to the Trade Bill,³ i.e. the Government should extend the 21-day CRAG scrutiny period until any debate sought by the Committees has taken place.

² *Ibid*

³ <https://publications.parliament.uk/pa/bills/lbill/58-01/128/5801128-R-II.pdf>

We would also wish to see alongside any trade agreement laid in Parliament an analysis of the domestic legislation that would be required to implement it. To fully scrutinise the consequences of an agreement, we need to know if it would require changes to domestic legislation and, if so, what these would be.

Finally, we note that the scope of the WMS is limited to agreements with the US, Australia, New Zealand and the UK's proposed accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). For other agreements, it states that the Government "will provide further clarification at the appropriate time". We see no reason why the same approach to scrutiny should not apply to other agreements.

We commend the Government for putting on the record its commitment to transparency and scrutiny and we trust that you will give due consideration to the points raised in this letter.

We look forward to your response by 14 January and to discussing these issues in more detail at our next private briefing.

I am copying this letter to the Earl of Kinnoull, Chair of the Lords EU Select Committee; Angus Brendan MacNeil MP, Chair of the Commons International Trade Committee; the Minister for Trade Policy, the Rt Hon Greg Hands MP; and the Minister for International Trade, Ranil Jayawardena MP.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rt Hon the Lord Goldsmith QC'. The signature is fluid and cursive, with a large loop at the end.

Rt Hon the Lord Goldsmith QC
Chair of the House of Lords International Agreements Sub-Committee