Department for International Trade

Department for Business, Energy & Industrial Strategy

Lord Grimstone of Boscobel, Kt
Minister of State for Investment

Department for International Trade
King Charles Street
Whitehall
London
SW1A 2AH

T +44 (0) 20 7215 5000
E grimstone.correspondence@trade.gov.uk
W www.gov.uk/dit

The Rt Hon Lord Goldsmith QC
Chairman
International Agreements Committee
House of Lords
London
SW1A 0PW

23 December 2020

Dear Lord Goldsmith QC,

Update on entry into force of continuity agreements

In under two years, we have agreed trade deals with 58 countries, accounting for £198bn of bilateral trade. This is an unprecedented achievement; no other country in the world has ever negotiated so many trade deals simultaneously.

As a result, we have already secured continuity with countries that account for 96% of the value of trade with non-EU countries that we set out to. This includes trade agreements with some of our largest trading partners such Switzerland, Canada, South Korea, Norway and South Africa.

In fact, since the Transition Period began, we expanded the ambition of our programme above and beyond the original scope, securing agreements with Japan, Vietnam and Singapore, which together accounted for £53bn of trade in 2019.

I am writing today with an update regarding the entry into force and implementation of these continuity agreements.

Ratification and Provisional Application

All trade continuity agreements will be laid in Parliament under the terms of the Constitutional Reform and Governance Act 2010 (CRaG). Recently, we have laid agreements with Canada, North Macedonia, Egypt, Norway and Iceland, Singapore and Kenya under CRaG.

We aim for all agreements to be fully ratified and enter into force as soon as possible but, where this is not possible for 1st January 2021, we will seek to provisionally apply agreements so that we meet our objective of providing continuity of trade.

This approach, which is widely used around the world, enables countries to apply treaty commitments on a provisional basis prior to entry into force, while they complete their necessary domestic procedures and relevant international treaty formalities.

The process for provisional application varies from agreement to agreement, but is usually set out in the final provisions of the agreement itself, typically in an article addressing the entry into force of the treaty. We have published an updated technical note, originally published in 2019, which is attached to this letter, setting out further information on the use of provisional application. Agreements that we expect to provisionally apply are in Annex A.

Bridging Mechanisms

Where we or our treaty partners are unable to fully ratify or provisionally apply an agreement, we will seek to give effect to the preferences under our signed agreements through alternative bridging mechanisms. These non-binding mechanisms include Memoranda of Understanding or Exchange of Diplomatic Notes that, where the legal system on both sides allow it, will ensure continuity of trade.

As these methods will bridge any gap between signature of an agreement and entry into force or entry into effect, they deliver our objective of continuity too. This approach has been developed to help avoid any unnecessary changes for existing British trade relationships for purely technical reasons such as ratification timelines or a legal inability to provisionally apply the concluded agreements.

The technical note we have published sets out our assessment of bridging mechanisms in delivering continuity also. Annex A contains further information on the agreements where we expect a Bridging Mechanism to be required. The bridging mechanisms already agreed are attached to this letter; we will share and publish any further bridging mechanisms agreed.

Agreements that will not be in place on 1st January

With a few countries, we have – unfortunately – not always found a willing counterpart. With others, foreign elections have intervened or more time is needed before a mutually beneficial agreement can be reached or both, as can sometimes happen in negotiations. As such, we do not expect that agreements with Algeria, Bosnia & Herzegovina, Serbia, and Montenegro will be in place on 1st January.

Together, these countries accounted for around only 0.1% of our total exports in 2019. 64% of trade with these partners represents goods imports, of which approximately 90% would continue to be tariff free under our unilateral preferences combined with liberalised tariffs under the ‘UK Global Tariff’. However, if these countries wish to secure a continuity deal with us, they will find a willing partner in Britain.

Entry into force of signed agreements

As explained above, signing agreements is not the final step. They also need to be brought into effect so that business can benefit from preferential trade on 1st January. Bringing an agreement into effect is a technical legal step, but a vital one. Without doing so, agreements won’t apply at the end of the Transition Period.

In all cases, we have been ready and willing to bring all agreements into effect. In most cases, our partner countries have been able to work with us to bring these agreements into force for 1st January. But some countries with whom we have signed agreements with have not been able to do this, or have not been able to do so fully.

The United Kingdom – Jordan trade agreement was signed on 6th November 2019. Jordan's parliamentary scrutiny has been delayed due to COVID-related issues, but they continue to push for local ratification of the agreement. There will be a short-term gap in preferential trading arrangements between us and Jordan until this can be completed.

The United Kingdom – Canada Trade Continuity Agreement (TCA) was signed on 9th December 2020. Canada was not able to pass the required legislation last week for the TCA to come into force on 1st January, meaning there will likely be a delay to this agreement being applied whilst the Bill makes passage through the Canadian system in January.

Of course, we are working with Canada to do all we can in ensuring trading arrangements are in place for 1st January to minimise the impact that any possible delay to implementing the agreement could have on British businesses. We signed a Memorandum of Understanding (MOU) with Canada agreeing transitional measures to mitigate the impact of the delay in implementing the United Kingdom – Canada Trade Continuity Agreement (TCA) from 1st January. These temporary arrangements will be in place until the TCA is approved by our Parliaments early next year. We will keep businesses updated on what this means for them and provide them the necessary support as we leave the transition period.

The United Kingdom – Mexico trade agreement was signed on 15th December 2020. We are working to implement the agreement in time. As a contingency, we are exploring all possible options available to us, so that businesses can continue to trade as they do now.

All our agreements provide a strong foundation for our future trading relationships as an independent trading nation. Transitioning these agreements is not the limit of our ambition and we will look at how we can improve upon these trade arrangements to maximise opportunities for trade and investment.

More trade means better jobs and higher wages for workers. More trade means more choice and lower prices for consumers. That’s why, as Britain seeks to bounce back from coronavirus and build back better across the country, HM Government will seek to deepen trading relationships with our friends around the world.

Best wishes,

Lord Grimstone of Boscobel, Kt
Minister of State for Investment
Department for International Trade

Annex A: entry into force/effect of continuity agreements

Andean countries	Colombia	Bridging mechanism
	Ecuador	Full ratification
	Peru	Bridging mechanism
Canada	Canada	Expected to enter into effect in early 2021; preferential tariff rates will be applied from 1st January through a bridging mechanism
CARIFORUM trade bloc	Antigua and Barbuda	Provisional application
	Barbados	Provisional application
	St. Kitts and Nevis	Bridging mechanism
	Belize	Provisional application
	Bahamas	Provisional application
	Saint Lucia	Provisional application
	Dominica	Provisional application
	Dominican Republic	Provisional application
	Grenada	Provisional application
	Jamaica	Provisional application
	St. Vincent and the Grenadines	Provisional application
	Trinidad and Tobago	Bridging mechanism
Central America	Costa Rica	Full ratification
	El Salvador	Full ratification
	Guatemala	Full ratification
	Honduras	Full ratification
	Nicaragua	Full ratification
	Panama	Full ratification
Chile	Chile	Full ratification
Côte d'Ivoire	Côte d'Ivoire	Full ratification
Eastern and Southern Africa (ESA) trade bloc	Mauritius	Full ratification
	Seychelles	Full ratification
	Zimbabwe	Full ratification
Egypt	Egypt	Provisional application
Faroe Islands	Faroe Islands	Full ratification
Georgia	Georgia	Full ratification
Iceland and Norway	Iceland	Provisional application
	Norway	Provisional application
Israel	Israel	Full ratification
Kenya	Kenya	Bridging mechanism
Kosovo	Kosovo	Full ratification
Lebanon	Lebanon	Full ratification
Liechtenstein	Liechtenstein	Full ratification
Mexico	Mexico	Provisional Application or bridging mechanism
Morocco	Morocco	Full ratification
North Macedonia	North Macedonia	Provisional application

Pacific states	Fiji	Provisional application
	Papua New Guinea	Provisional application
Palestinian Authority	Palestinian Authority	Full ratification
Singapore	Singapore	Provisional application
South Korea	South Korea	Full ratification
Southern Africa Customs Union and Mozambique (SACUM) trade bloc	Botswana	Full ratification
	Eswatini	Full ratification
	Lesotho	Full ratification
	Mozambique	Full ratification
	Namibia	Full ratification
	South Africa	Full ratification
Switzerland	Switzerland	Full ratification
Tunisia	Tunisia	Full ratification
Ukraine	Ukraine	Full ratification
Vietnam (Agreement in principle)	Vietnam	Provisional application

Please find attached to this letter:

Annex B: Technical Note on Provisional Application and Bridging Mechanisms

Annex C: Bridging mechanisms already secured with partners

Department for
International Trade

PROVISIONAL APPLICATION AND BRIDGING MECHANISMS

Information Note

In under two years, HM Government has signed or agreed in principle trade agreements with 58 countries. Total UK trade with these countries was worth £198 billion in 2019.

All trade continuity agreements are laid in Parliament to undergo a 21-day scrutiny period under the Constitutional Reform and Governance Act 2010 (CRaG). Recently, we have laid agreements with Canada, North Macedonia, Egypt, Norway & Iceland, Singapore and Kenya under CRaG. Any trade continuity agreement we sign will be laid in Parliament at the soonest possible opportunity.

We aim for all agreements to be fully ratified and enter into force as soon as possible, but where this is not possible for 1 January 2021, we will either provisionally apply or implement through a bridging mechanism to allow continuity agreements to come into effect. This technical note intends to provide further detail on these two methods.

Provisional Application

1. Where a continuity agreement is unable to complete the CRaG scrutiny process before the end of the year, where possible HMG will aim to bring it into effect via provisional application. Provisional application enables countries to apply treaty commitments on a provisional basis prior to entry into force, while they complete their necessary domestic procedures and relevant international treaty formalities for entry into force.

2. The process for provisional application varies from agreement to agreement but is usually set out in the final provisions of the agreement itself, typically in an article addressing the entry into force of the treaty. The factors that influence its availability or use include third countries' constitutional arrangements, which may impact their ability to provisionally apply international agreements in whole or in part. Additional information on the use of provisional application is also contained within the Explanatory Memoranda which accompany treaties.

3. Provisional application is a method well established in international treaty practice to bring agreements into effect ahead of entry into force. It is recognised by Article 25 of the Vienna Convention on the Law of Treaties (VCLT) and many of the EU's existing FTAs provide for provisional application and were – or are being – provisionally applied prior to formal entry into force. The EU-Canada Comprehensive Economic and Trade Agreement (CETA) is currently being provisionally applied in part and there are also many UK precedents in relation to both bilateral and multilateral agreements.

4. Provisional application will not affect Parliament's ability to scrutinise trade continuity agreements. All signed agreements, without exception, will be laid in Parliament to fully meet the provisions of CRaG.

Bridging Mechanisms

5. Where we or our treaty partners are unable to fully ratify or provisionally apply an agreement, we will seek to give effect to the preferences under the signed UK agreements (or, if necessary, under the existing EU agreements) through alternative bridging mechanisms. These non-binding mechanisms include Memoranda of Understanding or Exchange of Diplomatic Notes which will ensure continuity of trade.

6. These methods will bridge any gap between signature of an agreement and entry into force or entry into effect, thereby delivering our objective of continuity. This approach has been developed to help avoid any cliff-edge created in existing UK trade relationships explicitly by ratification timelines or an inability to provisionally apply the concluded agreements.

7. Bridging mechanisms have been used by countries to enter into arrangements with each other across a range of areas of international relations, including in matters of international trade. A bridging mechanism is not legally binding but creates a strong political commitment, in our context, to continue the effects of the trading arrangements for the time needed to fully ratify (or provisionally apply).

8. The period that a bridging mechanism would need to last for will vary by country, but we envisage only rare circumstances where this could be longer than six months. Any bridging mechanism will include a sunset clause to ensure that the UK and partner countries seek to complete domestic procedures as quickly as possible.

9. The UK considers bridging mechanisms to be a means of applying the preferences in a WTO-compliant free trade agreement with its partners on a temporary basis under Article XXIV GATT and Article V of GATS. We will notify the WTO about our trading arrangements where they are given effect through a bridging mechanism.

10. Similarly to provisional application, bridging mechanisms will not affect the Parliament’s ability to fully scrutinise continuity agreements under the CRaG process. We will lay all signed agreements, without exception, in Parliament to fully meet the provisions of CRaG.

11. We remain committed to submitting all signed continuity agreements for Parliamentary scrutiny under CRaG at the soonest possible opportunity. We believe that CRaG is an established and proportionate mechanism for the scrutiny of treaties.

We will also continue to publish Parliamentary Reports alongside all signed continuity agreements, setting out any significant differences with the predecessor EU agreements.