Department for International Trade

Department for Business, Energy & Industrial Strategy

Lord Grimstone of Boscobel, Kt
Minister 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,
The Lord Oates,
The Baroness Sugg CBE,
The Lord McDonald of Salford KCMG KCVO,
The Lord Kerr of Kinlochard GCMG,
The Rt Hon. the Lord Boateng,
The Rt Hon. the Lord McNally,
The Viscount Trenchard,
The Lord Hannay of Chiswick GCMG,
The Viscount Waverley,
The Baroness Wheatcroft,
The Earl of Sandwich,
The Lord Purvis of Tweed,
The Lord Collins of Highbury,
The Baroness Neville-Rolfe DBE CMG

16 March 2021

My Lords,

During last week's debate on the UK's Economic Partnership Agreement (EPA) with Kenya, I promised to follow up in writing on some points raised by Noble Lords. I am pleased to take this opportunity to do so, and I would firstly like to express my thanks to the International Agreements Committee for their scrutiny of this agreement and for facilitating this important debate.

As you know, the UK has now secured 9 agreements with 16 countries across Africa and it remains our ambition for this EPA to be expanded in future to other EAC Partner States. This agreement can put our trading relationship with the East African Community on a more advanced footing and it provides a framework to deepen our cooperation on trade. We are ready to engage with any EAC Partner State that would like to join the EPA.

I am also pleased to confirm that on 9th March the Kenyan Parliament held a debate and subsequent vote on the EPA. The motion passed and we are in close contact with the Government of Kenya to jointly agree the date for the agreement's entry into force.

Alternative options for trade continuity: The Transitional Protection Measure

Turning first to the Noble Lord Purvis' intervention, you will recall that he asked the Government to clarify why the bridging mechanism had been discounted in our consideration of options for trade continuity with Kenya after the end of the transition period.

Alongside the agreement, the UK and Kenya also signed a Memorandum of Understanding on 8th December 2020.[1] This time-limited bridging mechanism was designed to give both countries additional time to finalise domestic processes for ratifying the agreement, whilst enabling the effects of the EPA to apply since the end of the transition period. Therefore, since this bridging mechanism is currently in effect, I understand that the Noble Lord may have intended to refer instead to the Transitional Protection Measure (TPM) which was developed in advance of a potential 'No-Deal' exit from the EU in 2019.

I hope that my statement during the debate clarified for Noble Lords why the TPM was not considered an appropriate mechanism to extend Kenya's duty-free, quota-free market access after the end of the transition period. Whilst the UK had proposed the TPM to Kenya in 2019, this had only been developed to provide an additional 18 months to conclude trade negotiations with certain partners who faced the prospect of new tariffs in the event of a 'no deal' EU exit. However, as the Withdrawal Agreement reached between the UK and the EU in October 2019 included an eleven-month transition period, this gave additional time to conclude outstanding negotiations and the 'no deal' TPM was no longer appropriate.

Development Cooperation

The Noble Lord Purvis also raised an issue around development co-operation, the different approaches of the UK and the EU and asked for further clarification around the UK's development support. The original EAC-EU agreement covered development co-operation between all of the EU and all of the EAC. The United Kingdom, whilst maintaining the breadth of the areas of development co-operation that the EU agreement envisaged, is not able to commit to financing all such activities in an agreement between the UK and Kenya alone. The EU uses its EDF (European Development Fund) which is a long-term instrument for financing development. The UK's support is more targeted, and channelled through programmes such as Trade Mark East Africa (referred to by several Noble Lords during the debate).

Engagement with EAC Partner States

The Noble Lord Collins noted in his intervention that recent regional media reports have suggested that Burundi, Rwanda, Tanzania and Uganda have demanded the extension of the negotiation period by one year so that they can sign this agreement as a region.

As set out previously in my letters to the Committee and in the Written Ministerial Statement I tabled on 10th February 2021, the UK has engaged with EAC Partner States since January 2020 to discuss securing an agreement with the whole of the EAC, and put forward a proposal for the EAC's consideration. During this engagement the EAC confirmed that, like the UK, it recognised the importance of ensuring that there was no disruption to Kenya's trade with the UK at the end of the transition period.

As I noted in the debate, during the annual summit of EAC Heads of State last month one of the things specifically considered was participation in trade agreements. With reference to the EU's EPA, which as you know is precisely the text on which we have based our

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[1] https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-uk-and-kenya-on-the-economic-partnership-agreement/memorandum-of-understanding-between-the-uk-and-kenya

agreement, the Heads of State recognised that not all EAC Partner States are in a position to sign, ratify and implement the agreement. They concluded that Partner States who wish to do so should be able to commence engagements with a view to starting implementation. This is in keeping with the approach we have taken on our EPA, and has been approved at the EAC Heads of State level.[2] As I have noted above, the UK remains ready to engage with any EAC Partner State should they wish to accede to this EPA in future.

Areas for Future Negotiation

I would like to thank the Noble Baroness Wheatcroft for raising the issue of transparency in public procurement contracts, and for asking Government why this is not included in the EPA. As she notes, Article 3 of the Agreement is the ‘Rendez-vous Clause’ which establishes that the parties undertake to conclude negotiations on transparency in public procurement – alongside a number of other areas – within five years of the Agreement’s entry into force.

This agreement replicates the intended effects of the EU agreement that was signed by the UK and Kenya in 2016, and as you know our negotiations were based on the existing EU text. New areas were therefore not included in scope of our discussions. However, I would like to reassure the Noble Baroness that this is an important article which reflects the UK and Kenya’s shared ambition to strengthen our partnership in future, and we look forward to continuing our close engagement with Kenya through the framework of this agreement.

I hope this letter has provided useful clarification and information on the above points and in closing, allow me to again thank the IAC and its members for your detailed scrutiny of this agreement and to reiterate the UK’s ambition that it is a stepping-stone to even greater regional integration in future.

I am placing a copy of this letter in the Libraries of the House.

Yours sincerely,

Lord Grimstone of Boscobel, Kt
Minister for Investment
Department for International Trade
Department for Business, Energy and Industrial Strategy

[2] https://www.eac.int/communique/1942-communiqu%C3%A9-of-the-21st-ordinary-summit-of-the-east-african-community-heads-of-state