



Transport Committee

House of Commons, London, SW1A 0AA

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Sir William Cash MP
Chair, European Scrutiny Committee
House of Commons
London
SW1A 0AA

7 April 2020

Dear Bill

Request for the Committee's view on the EU's negotiating mandate

Thank you for your letter dated 11 March 2020 inviting the Committee's view on the EU's negotiating mandate. The Committee believes that the EU mandate for negotiations with the UK on the future relationship is an important document and deservedly warrants further parliamentary scrutiny through a debate on the floor on the House.

Transport will form a key part of UK-EU future relationship negotiations. The EU's negotiating mandate sets out its desired future relationship with the UK in transport, with particular emphasis on aviation and road haulage. The EU's mandate mentions rail and maritime to a lesser degree. Due to the timeframe for response, we are unable to provide a detailed assessment of each transport sector but we highlight areas of interest for aviation and road transport below, particularly where the stated positions of the EU and UK diverge.

Aviation—the EU envisages a comprehensive agreement with the UK for the aviation sector. The UK has the third largest aviation network in the world and the largest air transport system in Europe.¹ Unlike some other areas, there is no international or regional agreement for both parties to fall back on should a deal not be reached.

On the specific content, the EU seeks an agreement that covers basic point-to-point travel—for example, from the EU to the UK and vice versa—along with providing for “fifth freedom rights” if balanced with “corresponding obligations”.² Fifth freedom rights include flight stops in the territory of a Member State en-route to another third state (for example, a flight begins in the UK, sets down and picks up passengers in Germany and then continues to Dubai). The EU's mandate is, however, silent on “cabotage” and “grand cabotage” (that is, the ability to fly within, and between, the territory of Member States).

Road haulage—the EU is clear that UK hauliers should not be granted the same level of rights and benefits as those enjoyed by EU hauliers when travelling from one Member State

¹ Government Response to Report by the Committee on Exiting the European Union, '[Aviation Sector Report](#)', November 2017

² Para 64 of the EU's negotiating mandate.



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to another, or within the territory of a Member State.³ This approach is consistent with that suggested for aviation and is justified on the basis that non-EU states should not enjoy the same rights as Member States. The UK's counterpart negotiating document, however, states that "UK and EU road transport operators should be entitled to provide services to, from and through each other's territories".⁴ It is unclear whether reference to the provision of services "to, from and through"—taken collectively—envisages an agreement covering cabotage or grand cabotage. We believe these apparent different objectives between the EU and UK would benefit from further scrutiny.

Alignment of regulation and standards—transport is central to ongoing debates about ensuring a "level playing field" in certain sectors. Commitments from both the UK and EU on state aid, competition, environment, and social and labour standards will have an impact on all transport sectors. In road transport, for example, the EU seeks an agreement covering rules relating to "operators and drivers (including social rules)" that do not fall below the levels of protection "provided by the common standards applicable in the Union and the United Kingdom at the end of the transition period".⁵ This could be interpreted to include existing EU laws on driver working hours and rest periods.

Similarly, Part 2 of the EU's mandate covers technical regulations and testing and certification requirements for goods placed on the EU and UK markets. Such goods include motor vehicles and motor vehicle parts. The EU envisages a streamlined certification process for such goods whereas the UK has proposed a system that favours mutual recognition.⁶ This is again an area which will need to be resolved between the two parties and where further scrutiny could be beneficial.

I hope this information is useful in determining whether to put forward a motion on the floor of the House for debate. If such a debate is scheduled, either I or another Committee Member would be happy to participate.

Yours sincerely,

Huw Merriman MP
Chair of the Transport Committee

³ *ibid* para 73

⁴ HM Government, '[The Future Relationship with the EU: The UK's Approach to Negotiations](#)', (27 February 2020) CP211, para 62

⁵ Para 74

⁶ Para 29 of the EU's negotiation mandate; Para 19 of HM Government's Command Paper.