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The Earl of Kinnoull
Chair, European Affairs Committee
House of Lords
London
SW1A 0PW

By email to Christopher Johnson:
JohnsonC@parliament.uk

6 September 2021

Dear Lord Kinnoull,

UK Trade Agreement with Norway, Iceland and Liechtenstein

Thank you for seeking the views of the devolved administrations on the content of, and process around, the UK's signed trade agreement with Norway, Iceland and Liechtenstein, as part of the UK Parliament's scrutiny under the Constitutional Reform and Governance Act 2010. I am pleased to provide your Committee with comments on the Scottish Government's involvement in the negotiations, a summary of the information we provided to DIT on our main trade interests with these countries, and our views on the agreement.

As detailed in this document, trade with Norway and Iceland in particular, is important to Scotland. That trading relationship was put at risk by the UK Government's reckless approach to Brexit. That approach meant that this agreement effectively tried to replicate the level of market access we enjoyed previously as members of the EU, but could not do so, leaving Scottish businesses at a disadvantage compared to their EU competitors.

We have consistently made the case for a full role for the Scottish Government in all stages of trade negotiations. As the attached note sets out, that did not happen in this case, with the result that we were not involved in any of the crucial detail relating to tariffs and goods market access. We therefore continue to press the UK Government to involve the Scottish Government and other devolved administrations fully in the development of future trade agreements.

I would be happy to provide any further information should the Committee require it.

IVAN MCKEE

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UK Trade Agreement with Norway, Iceland and Liechtenstein (the EEA EFTA states)

Scottish Government views

Scottish Government involvement in the trade agreement process

The Scottish Government has consistently made the case for a guaranteed role for the Scottish Government and Parliament in all stages of the formulation, negotiation, agreement and implementation of future UK trade agreements. This was set out in *Scotland's Role in the Development of Future UK Trade Arrangements*. Our approach to trade policy is set out in Scotland's Vision for Trade, published in January 2021.

The UK Department for International Trade (DIT) originally treated the negotiations with Norway, Iceland and Liechtenstein as part of the Continuity Negotiations and Co-ordination Programme, which meant that devolved administrations had no involvement in the process other than receiving updates on progress. The Scottish Government made clear to DIT that this was not acceptable.

In February 2021, we were advised that DIT *would* share more information on the negotiations, including offering the opportunity to comment on texts where they related to devolved competence. However this still fell short of the level of engagement that we have called for, as it meant that we were not consulted on significant aspects of the negotiations, such as the UK goods market access offers and negotiating positions.

The Scottish Government has provided DIT with detailed information on Scotland's trade interests with these countries and our priorities for a trade agreement, through Ministerial correspondence and official level discussions. This information is summarised below, along with the Scottish Government's views on the terms of the agreement that was reached.

Scotland's trade with the EEA EFTA states

Scottish exports account for a quarter of all UK goods exports to Norway and Iceland, including machinery, transport equipment, fuel, iron and steel, and agricultural and fisheries products. For some products, we are the main export nation from within the UK. HMRC data shows that in the year to March 2020 Scotland exported, among other products:

- £57 million of animal feed, including fish feed, to Norway and Iceland, or 84% of all UK animal feed exports to these countries.
- £150 million of petrol and petroleum products, or 67% of all UK petroleum exports to these countries;
- £155 million of general industrial machinery, 44% of UK exports;
- £78 million of iron and steel, 42% of UK exports.

Scotland also exported £6 million of food products (in particular, seafood and cereals) and £12 million of beverages.

The aquaculture industry, which is almost uniquely Scottish in terms of UK interests, is of particular concern in any deal with EEA EFTA states. Scottish salmon farming is closely interconnected with Norway and Iceland. The biggest market for Scottish fish feed is Norway and Iceland, and 90% of salmon ova imports come from Norway; with imports from Iceland as well. We pointed out to DIT that in the absence of a trade agreement, Scottish fish feed exports to Norway and Iceland would face very high tariffs.

In terms of services, in 2017 Scotland exported £260m from the energy sector, £115m of financial and business services and £110m of transportation and storage. We therefore stressed the importance of this trade agreement maintaining the preferential trading conditions for our service sector enabled by the EEA agreement, ensuring that we are not disadvantaged relative to EU competitors.

Scottish priorities for a trade agreement with the EEA EFTA states

Our main comment on the UK Government's proposed agreement was that we would like to see as close a replication as possible of the trading arrangement that we enjoyed previously – as a member of the EU - with the EEA EFTA states. We expressed our concern that this agreement would not do so, just as the previous limited interim agreement had not done so.

We emphasised the significance of Scotland's exports to Norway and Iceland and the importance of continued tariff-free trade for our important export sectors, as outlined above. In particular, we pointed out that, while the interim agreement reached before the end of the transition period provided continuity for goods, it did not provide the same level of coverage for services. Previously, Scottish companies benefited from the access afforded by the UK, Norway and Iceland all being part of the single market.

We noted that Scottish services providers require conditions such as: the ability to establish a commercial presence without complex requirements; mode 4 access for short-term business visitors and independent professionals; the ability for professional qualifications to be recognised; and comprehensive market access commitment in our key sectors.

We therefore had two major concerns about the previous interim agreement, and this new agreement:

- The impact of any loss of market access for services: the agreement significantly limited the scope for Norway and Iceland to conclude agreements on services trade with other countries.
- Loss of mutual recognition: if UK Notified Bodies are no longer recognised for goods exported to Norway and Iceland, exporters will face additional certification costs.

We also made clear our strong concerns about the potential for increasing access to the UK market for EEA EFTA imports of fish and seafood products, which could have a negative impact on Scottish fishing, aquaculture and seafood processing. These businesses are already struggling due to the trade barriers erected as a result of leaving the EU.

Outcome of the agreement

While it is welcome that an agreement has been secured with Norway, Iceland and Liechtenstein, this - as with the other continuity trade agreements - is essentially an attempt to replicate the trading environment we already had as a member of the EU. However no trade agreement is able to provide the full range of benefits that Scotland enjoyed as a member of the European Single Market.

In addition to making that point, we provided the following main comments to the UK Government on the terms of the agreement:

Trade in Goods

We noted that we were pleased that the outcome reflected our call for the continuation of the previous tariff-free trade of our significant exports, and that tariff protections for salmon would remain in place as part of the agreement. However, as the EEA EFTA states are fully harmonised with the EU's standards and regulations for products as part of the Single Market, we noted that the introduction of non-tariff barriers was inevitable. As with the arrangements under the UK-EU TCA, there will be two separate sets of rules and regulations for placing goods on the respective markets and new certification and marking requirements. This will drive up the cost of doing business, in some cases prohibitively.

Trade in services

The exclusion of services from the previous continuity deal meant that Scottish companies could no longer take advantage of the freedom of movement provided for by the EEA agreement with the EU, placing them at a disadvantage compared to their EU competitors. We noted that this new agreement could also not fully recreate the market access afforded by Norway, Iceland, Liechtenstein and the UK all being part of the Single Market, as evidenced by the reservations contained within it. For instance, there is a reduction in the scope of legal services that can be provided, with Scottish lawyers no longer able to advise on EU law. Free movement of people is a cornerstone of the European Single Market, which Scotland consistently made the case to remain part of, even after EU exit. While the provisions in the FTA therefore provide some benefits, they do not go far enough and Scottish businesses will still find themselves facing barriers to trade that their competitors in the EU do not.

Digital trade

We noted that, as a member of the EU Single Market, digital trade was guided by the principles of free movement. This prevented any unjustified barriers to trade enabled by electronic means and ensured an open, secure and trustworthy online environment for businesses and consumers. The provisions in this agreement, as with the UK-EU TCA, fall short of this, with data adequacy providing a less-stable environment than EU membership.

There is also the potential for differences to emerge between how the UK, EU and EEA EFTA countries regulate e-commerce and digital services. For example, if the UK did not follow developments in digital policy in the EU, then this could result in a review of UK data adequacy. Longer term, this could lead to possible barriers to trade by hindering the free flow of data between countries, and placing unforeseen costs on businesses, especially if a positive data adequacy decision was revoked by the EU.