



The Rt Hon Elizabeth Truss MP  
Secretary of State for Foreign, Commonwealth and Development Affairs  
Foreign, Commonwealth & Development Office  
King Charles Street  
London  
SW1A 2AH

8 February 2022

Dear Foreign Secretary,

**Government response to Lords' *Working Practices: one year on* report**

I write on behalf of the International Agreements Committee following the Government's response to our *Working Practices: one year on* report, received on 17 December 2021. As you may be aware, the Committee discussed the response at a private meeting with Lord Grimstone of Boscobel, on 20 January, and in subsequent private correspondence. We welcome the practical steps taken by Lord Grimstone and the Department for International Trade (DIT) to improve parliamentary scrutiny of trade agreements. Two recent examples of this are the early publication of the text of the signed Australia trade agreement and the facilitation of a parliamentary debate on the CPTPP negotiating objectives.

In spite of these significant steps, the Committee was disappointed by the response to our report. We are now writing publicly to set out our position and to highlight several issues which we hope the Government will reconsider.

We note that the Government response appeared to row back from commitments made by Lord Grimstone at the Despatch Box during the passage of the Trade Bill—commitments which were the basis for the House not insisting on an amendment, thus helping to secure the Bill's passage. The Government now describes these commitments merely as a "firm ambition", indicating that "other factors" (which it has not defined) may "have to be considered when approaching these matters in future". If the House feels it cannot rely on Government commitments made at the Despatch Box, this would be of great concern, not just to this Committee, but to both Houses.

We had asked for Ministers' commitments on the scrutiny of trade agreements to be gathered into a Concordat between Parliament and the Government, to provide a clear and predictable framework to ensure that such agreements receive consistent and thorough scrutiny. We would, however, be open to an exchange of letters to provide a record of commitments made.

This pragmatic recommendation would ensure that the commitments made in letters, consultation papers, and from the Despatch Box to either House, can be consolidated in one place, for the benefit of both Parliament and stakeholders.

The fact that the Government has now sought to highlight flexibility, over predictability and certainty, reinforces our view that the time is right to crystallise the undertakings agreed with Ministers into a single document.

Notably, the Government response failed to restate some of the undertakings made by yourself as Secretary of State for International Trade in your letter of 16 March 2021 to the Commons' International Trade Committee.<sup>1</sup> Unfortunately, the omission of your undertakings may cast doubt on their continuing validity. While relations with the DIT currently work well without a formal agreement, any future administration could easily decline to provide Parliament with the information needed for this Committee to go about its work.

Turning to the matters which are the direct responsibility of the Foreign, Commonwealth and Development Office, we would raise several additional points.

First, we proposed important Memoranda of Understanding (MoUs) and substantive amendments to international agreements, which fall within certain clearly defined criteria, should be deposited with Parliament for scrutiny. We note that the Government has not accepted this recommendation.

It is of course open to the Government to make an agreement with another state either as a formal treaty, or an MoU (or indeed a combination of both). If the Government takes the view that MoUs should remain private, the effect is that parliamentary scrutiny becomes optional. The Government argues that the Committee is “mistaken” in citing a third limb to the Ponsonby Rule. This flies in the face of a clear commitment, made on the floor of the House in 1924, that the Government should disclose agreements which fall short of being treaties, but which “involve international obligations of a serious character”.

The same is true for amendments. Treaties can be living documents, and if the Government will not commit to predictable criteria for important amendments to be laid before Parliament for scrutiny, it is hard to see how parliamentarians can do an effective job. In rejecting the Committee's proposal for criteria, the Government argued that this would prejudice negotiators. However, it should be helpful for negotiators to have clear guidance as to when amendments or MoUs would normally be subject to scrutiny or ratified by Parliament.

There were a number of other pragmatic recommendations in our report which the Government has simply rejected, even refusing to undertake that the Committee would be given advance notice of new agreements, which clearly hinders our ability to do our work.

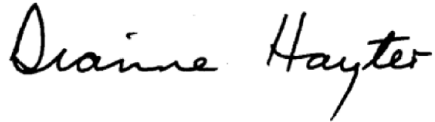
The Government's rejection of the majority of our proposals for working practices for treaty scrutiny places the Committee in an invidious position. Accordingly, we invite you to reconsider the issues identified above; provide assurances that previous commitments will be respected and be recorded in an exchange of letters; and commit the Government to engaging pragmatically both with our Committee and with any other relevant parliamentary committees.

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<sup>1</sup> Letter from the Secretary of State for the Department for International Trade to Chair of the International Trade Committee, 16 March 2021:  
<https://committees.parliament.uk/publications/5136/documents/50660/default/>

Perhaps your officials could meet with the Committee secretariat to discuss any outstanding issues and agree the details of the proposed exchange of letters. Alternatively, we would warmly welcome your attendance at the Committee to discuss these matters.

Yours sincerely,

A handwritten signature in black ink, reading "Dainne Hayter". The script is cursive and fluid, with the first name "Dainne" and the surname "Hayter" clearly distinguishable.

**Baroness Hayter**

Chair, International Agreements Committee

**Copied to:**

The Rt Hon Anne-Marie Trevelyan MP, Secretary of State for International Trade;

The Rt Hon Amanda Milling MP, Minister of State, Foreign, Commonwealth and Development Office;

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

Angus Brendan MacNeil MP, Chair, Commons International Trade Committee;

William Wragg MP, Chair, Commons Public Administration and Constitutional Affairs Committee;

Earl of Kinnoull, Chair, Lords European Affairs Committee;

Baroness Drake, Chair, Lords Constitution Committee;

Lord Hodgson of Astley Abbotts, Chair, Lords Secondary Legislation Scrutiny Committee;

Lord McLoughlin, Chair, Delegated Powers and Regulatory Reform Committee.