



Department for International Trade

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I am writing to inform you that on 19th March 2020 the UK Government will introduce the Trade Bill (the Bill) in the UK Parliament. I am also writing in similar terms to your counterparts in the Welsh Government and the Northern Ireland Executive.

This legislation is an important element of the UK's independent trade policy now that we have left the EU and delivers on the following key objectives:

- Maintain UK businesses' access to public procurement opportunities around the world worth approximately £1.3 trillion per year, and ensure that we get the best deal for the UK taxpayer by allowing reciprocal access to UK public service contracts. The legislation will do this by making provision for the UK to implement our obligations as an independent member of the World Trade Organization (WTO) Agreement on Government Procurement (GPA).
- Provide continuity for UK business and consumer. The legislation will do this by creating a concurrent power that will enable us to make any changes that are necessary to UK law to implement our trade continuity agreements. As of 31st December 2019, we have successfully concluded and signed trade continuity agreements with 48 countries. Trade with the 48 countries with whom the UK has signed a trade continuity agreement to date constitutes 8.3% of total UK trade, which will form the basis of our future trading relationships with these countries.
- Provide a safety net for domestic producers against injury caused by unfair trading practices such as dumping and subsidies, or unforeseen surges in imports. We will do this by creating a new independent body, the Trade Remedies Authority, to deliver the UK's trade remedies system.
- Enable HMRC to collect and share trade-related data with the Department for International Trade. This will allow the UK Government to identify exporters of goods and services for trade promotion purposes, as well as ensure that DIT can carry out the trade dispute and critical trade remedies functions that are currently fulfilled by the European Commission.

As with the Trade Bill 2017-19, in order to meet these objectives the Bill will create concurrent powers for the implementation of the Agreement on Government Procurement and international trade agreements that we are transitioning. **This letter therefore seeks the consent of the Scottish Parliament for certain clauses of the Bill.** These are detailed in the Annex.

During the passage of the Bill we will restate all of the commitments previously made to the devolved administrations during the passage of the Trade Bill 2017-19, including that the UK Government will not normally use the concurrent powers to legislate in devolved areas without the consent of the relevant devolved administration, and never without consulting them.

As I recently assured you at the inaugural Ministerial Forum for Trade, this Bill does not deal with future Free Trade Agreements with countries who did not sign a trade agreement with the EU before Exit Day. Consequently, the powers in this legislation cannot be used to implement any future Free Trade Agreement (FTA) with countries such as the US. My Department will continue to work closely with your administration in order to ensure that these future FTAs deliver for all of the nations within the UK.

Whilst the clauses relating to the creation of Trade Remedies Authority (TRA) are a reserved matter, I know the work of the TRA will be of great interest to the Scottish Government. We intend to restate the commitments previously made in relation to the TRA, including that the Scottish Government will be able to register their interest with the TRA and then become a contributor. As a contributor, the Scottish Government will be invited by the TRA to submit relevant information which it will be obliged to take into account in the investigation as appropriate.


I recently wrote to you to confirm that these commitments would also apply to the Trade Remedies Investigation Directorate (TRID) which will operate temporarily within DIT to carry out the functions of the TRA before it is created. My Department's officials have already begun engaging with your officials on how our commitments will work in practice, in order to ensure that your administration's views are given full consideration by both the TRID and the TRA.

Whilst the Trade Bill 2017-19 did not receive consent from the Scottish Parliament for the relevant clauses, I hope that given the commitments we will be restating to the DAs – as well as the significant engagement my Department will conduct with your administration on this Bill – you will be able to support this request and recommend that the Scottish Parliament provides consent for the relevant clauses of this Bill.

I am copying this letter to the Secretary of State for Scotland, the Minister for the Cabinet Office and the Chancellor of the Duchy of Lancaster.

With all good wishes.

Yours ever,



THE RT HON CONOR BURNS MP
Minister of State
Department for International Trade

Annex

Clauses for which we are seeking legislative consent:

Part 1, Clause 1: Implementation of the Agreement on Government Procurement

The Agreement on Government Procurement (GPA) brings procurement within the field of international trade and aims to mutually open government procurement markets between signatories. The UK participated in the GPA as a member of the EU. The UK Government intends to become an independent member of the GPA now that we have left the EU.

Clause 1 creates a concurrent power a Minister of the Crown and devolved authorities to make regulations implementing international obligations arising from the Government Procurement Agreement (GPA).

Part 1, Clause 2: Implementation of international trade agreements

The UK was a signatory to international trade agreements through membership of the EU. The UK Government is seeking continuity for existing trade agreements with third party countries now that the UK has left the EU.

Clause 2 ensures continuity trade agreements can be fully implemented by creating concurrent powers for a Minister of the Crown and devolved authorities to make regulations to implement non-tariff provisions with partner countries, provided that those countries have signed a trade agreement with the EU before exit day.

Part 1, Clause 3: Regulations: devolved authorities and general provisions

Clause 3 provides for different types of provision that could be made in regulations made under clauses 1 and 2. Clause 3 also gives effect to Schedules 1-3

Part 1, Clause 4: Interpretation of Part 1

Clause 4 outlines how certain terms within Part 1 of the Bill should be interpreted.

Schedule 1: Restrictions on devolved authorities

The Schedule describes the circumstances in which a devolved authority can use the powers in Clauses 1 and 2 to make regulations.

Schedule 2: Regulations under Part 1

Part 1 of the Schedule provides that the power to make regulations under Part 1 of the Trade Bill is exercisable by statutory instrument, and makes corresponding provision for the devolved authorities and for a Minister of the Crown acting jointly with a devolved authority.

Parts 2, 3, 4 and 5 of the Schedule provide for scrutiny by the UK Parliament and the devolved legislatures of regulations made under Clauses 1 and 2.

Schedule 3: Exceptions to Restrictions in the devolution settlements

Schedule 3 modifies the test for executive competence of the devolved authorities for the powers in the Bill.

