



# European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

24 April 2019

George Hollingbery MP  
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## **EU trade policy update — continuity of trade agreements and benefits to the UK of the EU-Japan trade deal post-exit**

Thank you for your letter dated 27 March 2019 which responds in part to our requests of 13 March 2019 for further information on:

- why you had failed to provide, as recommended in our previous letters of 6 June 2018 and 14 November 2018, a ‘living’ table annexed to your regular trade policy update, listing all external trade and investment agreements to which the UK is, or is expected to become party to (given its EU membership) before UK exit and providing (for each individual agreement) the information requested in both negotiated and non-negotiated (no deal) exit scenarios; and
- the expected net benefits of the EU-Japan Economic Partnership Agreement (EPA) for the UK in the event of a no deal exit from the EU.

### **Continuity of existing EU trade agreements after effective UK withdrawal from the EU**

#### **(a)(i) Negotiated withdrawal - during any transition period**

We asked you to clarify whether (for each individual agreement to which the UK is, or is expected to become party to by virtue of its EU membership before UK exit) the third country has confirmed that it will apply the agreement in its

entirety to the UK during any transition period (or whether it will seek any concessions) and how this is to be given legal effect (to ensure the UK benefits from the rights as well as the obligations).

You do not provide a response for each individual agreement, but:

i) restate general information previously shared with the Committee that:

- the EU has agreed to notify its treaty partners that the UK is to be treated as a Member State for the purposes of EU international agreements during the transition period (as set out in the Commission's Note Verbale of 5 December 2018) "following signature of the Withdrawal Agreement";
- a number of countries have already publicly welcomed this approach; and
- other countries have "privately and in confidence indicated to us [the Government] that they are supportive of this approach but were waiting for the notification to reply formally";

ii) adding that:

- it is the Government's view that a formal response by third countries confirming their clear agreement to the continued application of the international agreements [to the UK] after EU notification, whilst preferable, is "not a prerequisite for the UK to continue to enjoy rights under such agreements provided that the relevant third country intends the UK to be covered" on the basis that the "shared intention of the parties may be evidenced by other means, including subsequent state practice".

We consider that this new information warrants further explanation. In particular:

- how will the "shared intention" of the parties that the UK continues to be covered by the agreements be determined? Are there clearly defined, legally binding criteria or clear precedents under international law? Or does the government merely anticipate that acquiescence will be indicated by the conduct of the third country/ies?; and
- how would the lack of any legally binding, written confirmation by the third country that the UK continues to be covered by the agreement on exit date impact UK stakeholders? For example, how will UK stakeholders know which trade preferences to trade under (the preferential EU-third country trade agreement terms or WTO most favoured nation terms) until the "shared intention" has been established? What does the Government intend to do to mitigate the uncertainty/risks for stakeholders?

(a)(ii) Negotiated withdrawal - after any transition period

We requested clarification (for each individual agreement to which the UK is, or is expected to become party to by virtue of its EU membership before UK exit) on whether the UK and third country have agreed to replicate the existing EU agreement (notwithstanding any technical changes required to make the bilateral agreement operational) beyond any transition period or whether they will seek to negotiate a more ambitious deal in the interim to come into effect post-transition.

You simply state that all third country partners “understand continuity is the primary objective of our current dialogue, and that securing this will be a strong foundation to build upon our already successful trading relationships”. You do not provide a breakdown for each agreement.

(b) No deal

We requested information (for each individual agreement to which the UK is, or is expected to become party to by virtue of its EU membership before UK exit) on whether the third country has confirmed that it will agree to replicate the existing EU agreement with the UK (notwithstanding any technical changes required to make the bilateral agreement operational), or whether it will seek concessions, and the expected timetable for its entry into force (noting that ratification will be required on both sides).

You refer to the Secretary of State’s Written Ministerial Statement on trade continuity under a ‘no deal’ scenario of 21 February 2019 and Guidance on International Agreements if the UK leaves the EU without a deal and state that “the Government cannot provide a running commentary on our ongoing discussions” given sensitivities and that “it is difficult to indicate clear dates of entry into force of agreements”. We also note your Department’s Guidance on existing trade agreements if the UK leaves the EU with no deal<sup>1</sup>, which pertains to set “out the status of those agreements that may not be in place if the UK leaves the EU with no deal”. It provides minimal information for stakeholders (for example setting out whether “engagement [is] ongoing”).

Overall, we consider it disappointing that you continue to reiterate points raised in previous correspondence (which the Committee has already taken note of), rather than providing the information recommended in respect of each individual agreement.

We continue to stress that a consolidated, ‘living’ table that tracks all individual trade agreements to which the UK is currently party/is expected to become

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<sup>1</sup> At the time of writing, last updated on 2 April 2019.

party to before exit date and provides information on their status in relation to a negotiated withdrawal (both during any transition period and post-transition period) or non-negotiated (no deal) exit is necessary to assist a) Parliament in its scrutiny of the transition or replication of existing EU-third country trade agreements and b) UK stakeholders in navigating the myriad of agreements. In addition, the table should identify which outstanding agreements the Government is prioritising and why.

We also wish to clarify that the Committee has not received, as you state, a detailed reply to our questions to the Secretary of State for Exiting the EU (Rt Hon. Steve Barclay MP) of 12 February 2019 in relation to a) the number and status of Brexit-related replacement treaties in the event of no-deal and b) the Government's position on whether third countries and international organisations need to agree to the UK continuing to benefit from the terms of the EU's international agreements for the duration of the transition/implementation period in the event of a negotiated withdrawal.

We acknowledge the Secretary of State's letter to us (and a number of other Committees) of 7 March 2019 on agreements that the Government is seeking to transition in a no deal scenario<sup>2</sup> and updated in the letter of the Parliamentary Under Secretary of State for Exiting the EU (Chris Heaton-Harris MP) to us of 21 March 2019, but stress that these letters do not address the specific questions raised in our letter of 12 February 2019.

### **Benefits to the UK of the EU-Japan EPA**

On 13 March 2019, the Committee noted that you continue to stress that the EU-Japan Economic Partnership Agreement (EPA) could boost UK GDP by £3 billion per year "in the long run", but made no attempt to qualify, revise or update this estimate in the event of a no deal scenario (following the Secretary of State's acknowledgment that the deal would not be rolled over in time for exit date (at that time – 29 March 2019).

The Government's Impact Assessment of the EU-Japan EPA on the UK of 11 June 2018 estimates that implementation of the EU-Japan EPA would increase:

- bilateral exports between the EU and Japan by up to £40 billion (71 per cent) per annum, or approximately £3.2-5.4 billion for the UK;
- bilateral imports between the EU and Japan by up to £49 billion (61 per cent), which equates to around £5.5-£8.4 billion for the UK;
- EU GDP by 0.10 per cent to 0.14 per cent, which equates to £2.1-£3 billion for the UK.

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<sup>2</sup> Also see Department for Exiting the EU's general update on 'International Agreements if the UK leaves the EU without a deal' of 7 March 2019.

The Impact Assessment assumes that the UK a) continues to trade with the EU on a frictionless basis after EU exit and b) trades with Japan on an equivalent preferential basis to the EU-Japan EPA.

As the largest trade deal ever concluded, we sought urgent clarification on how UK stakeholders are likely to be impacted if the deal is not replicated in the event of a no deal exit from the EU and requested an updated impact assessment in such a scenario, as the assumptions above would no longer hold and bilateral trade and economic growth estimates would be affected as a result.

You state that you are “not in a position to provide additional analysis on any impact of the removal of preferences” as it depends on the extent to which UK businesses “utilise” these preferences.

We note that you are not willing or able to provide an updated assessment and ask you to clarify:

- how and when the Government will determine the utilisation rates by UK businesses of EU-Japan EPA preferences; and
- how the Government is determining which existing trade agreements to prioritise or improve post-exit if the Government is not monitoring or assessing the utilisation rates of all agreements in the immediate term.

I am copying this letter to Lord Boswell, Chris Johnson and Jennifer Martin-Kohlmorgen in the House of Lords; to Les Saunders of the Department for Exiting the European Union; to Angus MacNeil, Chair of the International Trade Committee; and to Edwina Osborne of your Department.

*Wm. G. R.*

*See*

**CHAIR**

