



Angus MacNeil MP
Chair
House of Commons Select Committee on International Trade

21 June 2018

Dear Angus

I welcome the opportunity to give written evidence to your committee's inquiry into the appropriate level of transparency and scrutiny of UK trade strategy and negotiations post Brexit.

May I begin by stating that the Welsh Government believes it is imperative that the UK Government engages comprehensively and effectively with the devolved institutions on the development of trade policy, on mandates for specific trade negotiations and on the negotiations themselves to ensure the future UK trade relationships work in the interests of the whole of the UK. It is essential that there is fairness and transparency in how future trade agreements are reached

Wales is an outward-looking, globally trading nation and we have a significant interest in trade. Whilst we accept that international trade is a reserved matter, there are clearly devolved interests, such as agriculture, which intersect with UK trade policy and there are clear risks to Wales if the UK Government's future trade policy does not adequately represent the needs of Welsh industry. It is vital that Welsh Government is involved early in the process of negotiating any future free trade agreements so we can effectively share information and influence outcomes.

I must emphasise that underpinning all our answers to the specific questions you pose is the call for the establishment of a Council for Ministers, whose remit would include consultation on trade issues between the four administrations. In the meantime, and as an interim step pending the substantial reform of inter-governmental machinery we believe a Joint Ministerial Committee (JMC) on International Trade should be established to enable timely and comprehensive consultation on overall trade policy and individual trade negotiations.

In addressing the questions you raise, I would wish to stress that I am responding on behalf of the Welsh Government and do not presume to speak for the National Assembly as a legislature. I would anticipate that they would wish to respond separately

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Turning now to your specific questions, our responses are:

1. Which documents pertaining to trade policy and negotiations should the Government make publicly available – and which should remain confidential?

Public interest in trade policy has increased in recent years. In developing trade policy for the UK going forward, the UK Government needs to ensure that it works with Devolved Administrations, consults with citizens and businesses and talks to civil society – ensuring that all stakeholders are included from the start.

We are supportive of the EU approach to transparency and would support a similar system being adopted in the UK. We propose the following:

- Publication of the negotiating mandate and any Impact Assessments that accompany the mandate.
- Publication of negotiating round reports – to keep the public up to date with progress.
- Publication of the negotiated agreement, without waiting for the full legal revision to be completed.

2. What level of access should Parliament and the devolved administrations and legislatures have to trade policy documents, including trade negotiation texts?

We have addressed above the issue of which documents should be publicly available.

Welsh Government fully understands that a certain level of confidentiality is necessary to protect the UK position in a negotiation, but our starting point is that there are well established protocols for sharing sensitive and confidential information between the UK Government and the Devolved Administrations on a privileged basis. We therefore believe that the UK Government should share with the Devolved Administrations trade policy documents and detailed updates on negotiations and on evolving negotiating strategy and tactics, especially insofar as they relate to areas of devolved competence. All parties need to work to build trust, allowing the sharing of documents in confidence. We propose the following mechanisms to help with this:

- The creation of a Joint Ministerial Committee on International Trade would be a big step to providing the governance structure needed to allow Ministers from the four administrations to work together to agree on priorities for trade negotiations, particularly in respect of areas of devolved competence.
- Supporting this forum with a Senior Officials level group would provide the forum for administrations to be able to openly share documents throughout the negotiations process.
- In areas of devolved competence Welsh Government should be part of the negotiations – whether that is ‘in the room’ or ‘in the room next door’.

3. How should the Government consult business and civil society groups on trade policy matters, including prospective and on-going trade negotiations?

Again we are supportive of the EU approach to consultation and would support a similar system being adopted in the UK. We propose the following:

- Formal consultation before the mandate is signed off and published – allowing stakeholders to comment on the mandate and impact assessments.

- Potentially, using the Joint Ministerial Committee on International Trade as a conduit for stakeholder consultation, particularly in respect of stakeholders in the devolved nations.
- A UK wide Advisory Group with representatives across businesses and civil society – ensuring that the UK Government has to take in to account the interests of stakeholders across the whole of the UK which would allow views on the mandate and negotiating round reports to feed back to negotiating teams.
- A stakeholder round table, including representation from the respective legislatures, in each of the four administrations, that feeds in to the Advisory Group – again allowing views on mandate and negotiating round reports to feed back to negotiating teams.

4. What role should Parliament and devolved administrations and legislatures have in drafting and/or approving the UK's negotiating mandate for trade negotiations?

A Joint Ministerial Committee on International Trade would provide the governance structure needed to allow Ministers from the four administrations to work together to agree a negotiating mandate for trade negotiations.

Despite trade being a reserved matter, trade has significant intersection with devolved powers in areas like environmental standards, economic development, agriculture and skills and qualifications. Hence decisions on the new trading relationships with the EU and wider world must be taken in close co-operation between the UK Government and Devolved Administrations in order to reflect the interests of the whole of the UK.

We would anticipate that the Welsh Government would be responsible for seeking the views of the National Assembly and informing the National Assembly of the representations it has made within the Joint Ministerial Committee on International Trade while respecting the confidentiality of matters under discussion.

5. What procedures should be in place for the UK Parliament and devolved administrations/legislatures to scrutinise trade agreements as they are being negotiated?

Again a Joint Ministerial Committee on International Trade and supporting Senior Officials Group would provide the governance structure needed to allow Ministers from the four administrations to scrutinise a negotiating mandate for trade negotiations in a strictly confidential way. We are also calling for Welsh Government officials to be part of the negotiations in areas of devolved competence.

We have also proposed that the UK adopts a European style remit to transparency and hence publishes negotiating round reports.

We would anticipate that the Welsh Government would formally consult the National Assembly (via appropriate Committees) on documents put into the public domain by the UK Government, notably the draft negotiating mandate and impact assessments in order to inform its input into inter-governmental discussions on trade issues.

6. What powers should Parliament and the devolved administrations and legislatures have over the ratification and implementing legislation of UK trade agreements?

We believe that any responsible UK Government would want to avoid major constitutional disputes over the implementation of trade agreements which might impact on, or require changes to policies within devolved competence. This is best achieved by early, full and meaningful consultation with the Devolved Administrations (and, through them, devolved legislatures) when agreeing – and, if necessary, departing from - negotiating mandates. A policy of inclusive policy development and ‘no surprises’ will ensure that trade agreements can be ratified and implemented without resorting to the legal powers which the UK Government currently possesses to force devolved institutions to comply with agreements which it has negotiated.

I look forward to reading the report of your inquiry in due course.

I am copying this letter to the Secretary of State for Wales, Alun Cairns; Cabinet Secretary for Economy, Jobs and Fair Work, Keith Brown MSP; The Minister for UK Negotiations on Scotland’s Place in Europe, Michael Russell MSP; David Sterling as Head of the Northern Ireland Civil Service as well as the Chairs of the External Affairs and Additional Legislation and the Economy, Infrastructure and Skills Committees of the National Assembly

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Skates', with a long, sweeping flourish above the name.

Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth
Cabinet Secretary for Economy and Transport