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Convener
European and External Relations Committee
Scottish Parliament



27 April 2015

Dear Convenor

**European and External Relations Committee report on the implications of the
Transatlantic Trade and Investment Partnership for Scotland**

Thank you for your letter of 20 March inviting the Scottish Government to respond to the Committee's useful report on the implications of the Transatlantic Trade and Investment Partnership for Scotland.

As you are aware, the Scottish Government has expressed strong concerns about the possible impact of TTIP on the NHS and other public services and about the implications of Investor State Dispute Settlement for democratic public policy. We therefore particularly welcome the Committee's recommendation that the European Commission and the UK Government should consider a 'double lock' to protect Scotland's public services and secure public trust and confidence in the TTIP negotiations. Like the Committee, we are also unconvinced of the need for an investor state dispute settlement mechanism.

The Scottish Government's response to each of the Committee's conclusions and recommendations is attached at Annex A and further detail on the particular points you raised is set out below.

Para. 5: Mechanisms and structures for consultation and engagement on EU Trade Agreements

As the Committee has identified, TTIP has implications across a broad range of devolved issues. The Scottish Government therefore shares the Committee's view that strong mechanisms and structures should be in place to ensure that the UK Government engages with and genuinely consults the Scottish Government on devolved issues arising from TTIP and other EU trade agreements.

On TTIP, whilst there has been some positive engagement at official level and the opportunity for Scottish Ministers to raise concerns through the Joint Ministerial Committee, this is no substitute for a formal and structured approach to engagement. Furthermore, whilst



the controversial nature of TTIP has prompted such engagement there has been very little engagement on other trade agreements such as those between the EU and Canada, the EU and Japan and the EU and Vietnam.

As the Committee is aware, the Scottish Government has no formal role in the negotiation or ratification of EU trade agreements. Nevertheless, we have a critical role in representing the people and businesses of Scotland and in ensuring that the UK Government, as the Member State speaking for Scotland at the EU, takes full account of Scottish priorities and concerns, whether those are economic or about devolved services like the NHS.

It is our view that this requires all relevant UK Government Departments to consult and engage with the Scottish Government from the very outset of trade negotiations and throughout the negotiating process. Whilst this is an on-going process it could usefully be supported by more formal processes for providing the Scottish Government and Scottish Parliament with updates on the progress of negotiations and mechanisms for discussions between officials, perhaps covering other international trade issues too, in advance of the Joint Ministerial Committee. Moreover, in line with the Smith Commission, on trade agreements and other EU issues action needs to be taken to reform the current inter-governmental machinery (the Joint Ministerial Committee) to increase collaboration on EU policy. Improving the implementation of the Concordat on the Co-ordination of European Policy Issues is a key part of this.

We are also of the view that the UK Government and the European Commission should find ways for the Scottish Government to access draft negotiating texts as they are being developed. Without access to these texts we are dependent on the UK Government understanding both potential implications for devolved policy areas and the different structure and nature of the Scottish economy in terms of distinct or disproportionate impacts, positive and negative, on Scotland in comparison with the broader/average UK position.

The Committee may also wish to note that, in his meeting with Commissioner Malstrom on 16 February, Lord Livingston asked the Commission to give senior UK parliamentarians access to TTIP treaty text as it is developed so that they can monitor progress and ask questions on the public's behalf. He also indicated that the UK Government is to offer to make other key documents relating to the progress of the negotiations available to all UK MPs and members of the House of Lords so that they have the same access as Members of the European Parliament to view EU-authored TTIP negotiating materials. Whilst this greater transparency is welcome it leaves a significant gap in terms of the scrutiny of TTIP (and other agreements) in respect of devolved issues and in how the views of the Scottish public can be heard and represented.

Para. 8 – Research into impact of agreement on key economic sectors

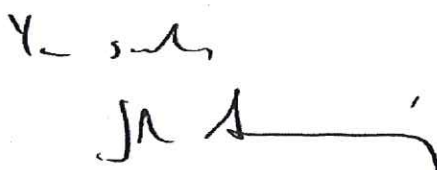
As highlighted in my evidence to the Committee, the Scottish Government has undertaken some indicative modelling of the impact of TTIP on the Scottish economy. This suggests that, in the aggregate, the agreement is likely to have a positive, albeit modest, impact on headline indicators such as GDP. Further information from this modelling is attached at Annex B. This draws on the work by Ecorys (2009) and the Centre for Economic Policy Research (2013) which, as the Committee is aware, has been challenged by some stakeholders.

As recommended by the Committee, the Scottish Government will undertake further work to assess the impacts of TTIP as and when an agreement is reached. Meantime, we will continue to gather quantitative and qualitative evidence from other sources to inform our understanding of TTIP and its possible impacts.

Para. 9 – Awareness of TTIP among the business community

The Scottish Government acknowledges that there is limited awareness of the potential opportunities and challenges of TTIP among the business community. We will therefore work with our enterprise agencies and through existing mechanisms for engagement, such as Industry Leadership Groups, to help raise awareness and understanding, especially among those sectors most likely to be affected. However, whilst it is important that businesses are aware of TTIP and understand its possible impacts, it must be emphasised that the Scottish Government is firmly of the view that any economic benefits must not be at the expense of the NHS or other public services, of high food, environmental or other standards or of the right of governments to regulate.

I trust the above is helpful and look forward to the Committee's continued consideration and scrutiny of this important issue.



JOHN SWINNEY

European and External Relations Committee: Report on the implications of the Transatlantic Trade and Investment Partnership for Scotland - Scottish Government Response	
COMMITTEE RECOMMENDATION	SG RESPONSE
PROCESS FOR AGREEING TTIP (Paras 24-46)	
Para. 3: The Committee recognises and understands the significant degree of public concern that has been expressed in relation to various aspects of the proposed TTIP with the United States. While we acknowledge that in any negotiation it is important to retain a degree of discretion about negotiating positions, the secrecy involved – particularly in the early stages of the negotiation – has contributed to significant public distrust in the agreement.	The Scottish Government has consistently called for greater transparency and agrees that lack of transparency, especially in the early stages of the process, has undermined public trust. The negotiations must be as open and transparent as possible.
Para. 4: The Committee therefore welcomes the publication of key documents and background information on the negotiations by Commissioner Malmström since she took up the post of Trade Commissioner. However, in light of the lack of clarity in relation to particular proposals – notably with regards to public services – and continuing public concerns, we call on the European Commission to make as much information as possible available during the remaining course of the negotiations.	The Scottish Government welcomes the steps the Commission has taken over recent months to publish position papers and negotiating texts and encourages further steps in this direction in line with the recommendations of the EU Ombudsman.
Para. 5: The Committee recognises that neither the Scottish Parliament nor the Scottish Government has a formal role either in the negotiations or eventual ratification of the agreement. The Committee is also aware that the Scottish Government is primarily dependent on intergovernmental contact with the UK Government to understand the potential impact of what is being negotiated under TTIP in devolved policy areas, particularly where there has been significant policy divergence since devolution. We believe that where issues of such importance for Scotland are at stake, it is crucial that there are strong mechanisms and structures to ensure that the Scottish Government is consulted and kept informed of developments of relevance to devolved policy areas.	Although the Scottish Government has no formal role in the negotiations or eventual ratification of the agreement we will continue to represent the people of Scotland and seek to ensure that the UK Government and the Commission takes full account of Scottish priorities and concerns, whether these are economic or about devolved services like the NHS. We agree with the Committee that there should be strong mechanisms and structures to facilitate this. Our views on how this might be achieved are provided in my cover letter.
Para. 6: The Committee is aware that the European Commission will, in future years, conduct further trade negotiations with a view to reaching agreement with other third parties. The Committee calls on the European Commission to conduct these negotiations with a high degree of transparency to ensure public confidence is maintained in relation to the process of concluding agreements.	The Scottish Government agrees with this recommendation and trusts that there will be a high degree of transparency from the very outset of any negotiations.
THE ECONOMICS OF TTIP (Paras 47-68)	
Para. 7: The Committee recognises that the US is an important export market for Scotland, based both on existing figures and the potential for further growth. It believes that trade liberalisation could be significant for a number of sectors in Scotland and could promote economic growth. The Committee also recognises	The Scottish Government notes that while TTIP is still being negotiated it is impossible to accurately model the scale, scope and distributional impacts of any agreement and that any modelling is necessarily dependent on a set of challengeable assumptions.

that the Transatlantic Trade and Investment Partnership could result in increased inward investment from the US in the future. However, we have reservations about some of the assumptions relating to economic growth that have been used in support of the agreement. We consider, in light of the evidence heard, that while there are likely to be some positive outcomes from the agreement, there may also be some sectors that contract in the face of increased competition with a negative consequential effect on employment.	Whatever the approach, the Scottish Government agrees that it is essential to consider not just the positive outcomes of any agreement but also the potential negative consequences arising from increased competition and/or changes to standards.
Para. 8: The Committee welcomes the commitment of the Scottish Government and the enterprise agencies to conduct further research into the impact of the agreement on the key economic sectors in Scotland, and calls on the Scottish Government to keep it informed of this work. In particular, if or when an agreement is eventually reached, the Committee asks the Scottish Government to carry out a more detailed economic impact assessment covering both GDP growth and the impact on key sectors in Scotland in order that this information can be provided to businesses in Scotland and provision made to mitigate any economic contraction and job losses.	See covering letter
Para. 9: The Committee was surprised by the lack of knowledge, understanding or engagement of some business organisations in Scotland on TTIP. It considers that it is important for business organisations to understand the implications of a trade agreement with the US and encourages the UK Government, the Scottish Government and the enterprise agencies to raise awareness of TTIP among the business community.	See covering letter
IMPROVED REGULATORY COHERENCE (PARAS. 69 – 81)	
Para 10.: The Committee recognises that improved regulatory coherence could help reduce the “red tape” that Scottish businesses face in exporting to the US market, for example by reducing “double” safety testing in both the EU and the US. However, it heard strong concerns that the agreement might result in a lowering of regulatory standards in important areas such as the environment, food production and quality, and animal husbandry. While we acknowledge that the UK Government and the European Commission have made clear statements that regulatory standards will not be affected, we also believe that in the absence of any final text on regulatory standards, there are no cast iron guarantees that regulatory standards will not be negatively impacted by the agreement and the public will not be reassured.	The Scottish Government is firmly of the view that TTIP should not result in any lowering of regulatory standards. On that basis and given that there is currently no final text on which to judge the Commission and UK Government’s assurances on these issues, the Cabinet Secretary for Rural Affairs, Food and the Environment wrote to the UK Government in advance of the March Agriculture and Fisheries Council seeking assurances that any deal negotiated will not reduce the level of food, health, environmental or labour standards in Scotland.
PROTECTED FOOD NAMES (PARAS 82-86)	
Para. 11: The Committee notes the assurances that TTIP will not result in a less favourable position for protected food names, but calls on the UK Government to press in this area for the protection of Scotland’s unique food products.	Protected Geographical Indicators such as Scottish Farmed Salmon and Scotch Beef are important marks of the quality and provenance of Scottish food. The Scottish Government agrees that the UK Government should press for the protection of Scotland’s unique food products and the Cabinet Secretary for Rural Affairs, Food and the Environment has written to the UK Government expressing concerns that giving

	PGI status to some products in the US and not others may provide an unfair advantage.
INVESTMENT PROTECTION AND INVESTOR TO STATE DISPUTE SETTLEMENT (ISDS) (PARAS 87-109)	
Para. 12: The Committee remains unconvinced of the need for an investor-to-state dispute settlement mechanism to protect against discriminative action against EU companies in the US or US companies in the EU. Furthermore, we believe that genuine and well-founded concerns were presented to us in evidence about the risks of national court systems being bypassed by major corporations. Therefore, we believe that any disputes should be resolved in accordance with the legal systems and processes of the country concerned.	The Scottish Government is not currently convinced that Investor State Dispute Settlement is required for an agreement between advanced economies with established legal systems such as the EU and the US and is strongly opposed to any mechanism which undermines the democratic right of governments and legislatures to regulate in the public interest. Rather, disputes between investors and the state should be settled in domestic courts.
Para. 13: The Committee will continue to monitor developments in relation to ISDS, particularly the European Commission's decision in April-May 2015 on whether there should be an ISDS mechanism, and if there is, the form that it will take.	The Scottish Government welcomes the Committee's continued monitoring of this issue.
IMPACT OF TTIP ON PUBLIC SERVICES (PARAS. 110-129)	
Para. 14: The protection of public services in Scotland, particularly NHS Scotland, was a key concern of those giving evidence to the Committee. The Committee heard from the UK Government and the European Commission that public and health services were not at risk from the agreement. However, we remain concerned about the definitions of public services and whether the reservations contained in the final agreement would protect the full range of public services that are delivered in Scotland. The Committee will therefore continue to monitor any developments in relation to whether definitions of public services in the TTIP agreement, particularly where they draw on the model contained in the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, fully cover the provision of public services in Scotland.	The Scottish Government shares the Committee's and the public's concerns about the impacts of TTIP on the NHS and other vital public services and will continue to press the Commission and the UK Government for an explicit protection for the NHS on the face of the TTIP agreement. There must be absolute clarity that, although the UK is the Member State, any decisions that it takes in the context of TTIP – such as opening up the NHS in England to more private providers – in no way interfere with the Scottish Government's and Parliament's devolved responsibilities.
Para. 15. The Committee recognises that despite the public statements from the UK Government and the European Commission that there is no risk to public services, the continuing public concern is indicative of a lack of trust in the whole negotiating process. We believe that these concerns have been exacerbated by the failure to make the text – or part of the text – on the reservations public. We consider it regrettable that, for the second time, information that would benefit the understanding of the process for the public has been made available by the leaking of a key European Commission negotiating document on the reservations.	As indicated above, the Scottish Government takes the view that the negotiations must be as open and transparent as possible.
Para 16.: The Committee encourages the UK Government and the European Commission to consider the Cabinet Secretary for Finance, Constitution and Economy's suggestion that a "double lock" be developed to secure public trust and confidence in the TTIP negotiations.	The Scottish Government welcomes the Committee's support for a 'double lock' which would (i) explicitly exempt the NHS from the agreement; and (ii) provide absolute clarity that whilst the UK is the Member State any decisions that it takes in the context of TTIP – such as opening up the NHS in England to more private providers – in no way interfere with the Scottish Government's and Parliament's devolved responsibilities.

GENERAL CONCLUSION (PARAS 130 -133)	
<p>Para. 17: The Committee believes that its inquiry work into TTIP has been very important, even though the Scottish Parliament will have no direct role in ratifying the eventual agreement and the Scottish Government has not direct role in the negotiations. The inquiry has allowed Scottish voices and Scottish concerns to be heard on this issue and, we hope, that by sending this report to the UK Government and the European Commission, that we can raise awareness of those concerns and influence the negotiation of an agreement that is constructive for the people that will live with its consequences.</p>	<p>The Scottish Government welcomes the Committee's inquiry and believes the Committee has performed a valuable role in enabling different Scottish views on TTIP to be aired. We share the Committee's hope that the UK Government and the European Commission will actively consider the Committee's conclusions and recommendations.</p>
<p>Para. 18: This inquiry has demonstrated to us how distant people and organisations in Scotland can feel from the decisions that are taken in Brussels. Decisions relating to TTIP have to permeate layers of government: from the European Commission to the UK as the Member State, and from the UK Government to the Scottish Government. Where there are concerns in Scotland, these have to be transmitted back through these layers in the hope that they will be taken into account in the eventual negotiations. We therefore understand the public frustrations and concerns on this issue.</p>	<p>As set out in our recently published EU Action Plan, the Scottish Government believes that restoring public confidence in the EU institutions and their governance must be a key priority for the European Commission and the European Parliament in the months and years ahead. This is particularly true in respect of TTIP where transparency has been weak and, as the Committee points out, there appears to be a disconnect between EU decision-making processes and the priorities and concerns of Scottish businesses and communities. The Committee's recommendation for stronger mechanisms and structures to ensure that the Scottish Government is consulted and kept informed of developments of relevance to devolved policy areas will go some way to address this but further action is needed to strengthen the connection between EU institutions and citizens.</p>
<p>Para. 19: The Committee believes that Scotland's representatives in the European Parliament and the Committee of the Regions have played an extremely valuable role in raising and addressing Scottish concerns, and we have valued their input to this inquiry greatly.</p>	<p>The Scottish Government welcomes the contribution that Scotland's representatives in the European Parliament and the Committee of the Regions have made to the Committee's work.</p>
<p>Para. 20: The conclusions and recommendations set out above represent our initial position in relation to TTIP. As a Committee, we intend to conduct further inquiry work, particularly to explore issues relating to ISDS and public services. In taking more evidence, we will also seek to clarify the effect of the provisions in the CETA with Canada, which are being drawn on as models in the TTIP agreement.</p>	<p>The Scottish Government welcomes the Committee's commitment to undertake further work as TTIP develops, especially in the areas of ISDS and public services where it is vital that the public's concerns are addressed.</p>

ANNEX B

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP – MODELLING OF ECONOMIC IMPACTS ON SCOTLAND

The Scottish Government undertook some indicative modelling of the impact of the Transatlantic Trade and Investment Partnership (TTIP) agreement on the Scottish economy, using its in-house CGE model of Scotland.

The modelling work makes extensive use of Ecorys¹ and CEPR² studies that quantify the additional trade costs imposed by USA-EU trade barriers and assess the likelihood and impact of their removal. The studies showed trade costs due to non-tariff barriers to be much higher than those due to tariffs and that there are considerable trade cost disparities between sectors.

The analysis simulates *i)* a complete abolishment of US trade tariffs, and *ii)* a uniform non-tariff barriers' reduction in all sectors by 25% - 50%. However, the final agreement may result in greater liberalisation in some areas than others and this may influence aggregate and sector level impacts.

Given information challenges and modelling limitations, the results of the modelling by the Scottish Government should be treated as purely indicative.

The modelling results suggest that, in the aggregate, the agreement is likely to have a positive, albeit modest, impact on headline indicators such as GDP and exports in Scotland. This is consistent with the CEPR findings for the UK as a whole. However, it should be noted that the Scottish Government analysis is not directly comparable to the CEPR results. This is because whilst the frameworks belong to the same category of economic models, there are some notable differences in the effects they capture.

	SG modelling - Scotland	CEPR modelling - UK
GDP	0.2% - 0.3%	0.1% - 0.3%
Total International Exports	1.8% - 3.6%	1.2% - 2.2%

The greatest impacts are estimated to be in sectors which:

- are currently subject to the highest US trade barriers,
- have relatively high trade with the US;
- are exporting goods where demand is likely to be price sensitive.

Some of the aggregated sectors which meet these criteria are discussed below. However, limitations in the sectoral level data available for Scotland mean that it is not possible to reliably estimate detailed results for individual sectors, whether positive or negative.

- **Transport Equipment** sector (excl. manufacturing of Motor Vehicles) has strong trade links with the US. A reduction in already relatively low trade barriers in this sector is estimated to lead to one of the highest percentage increases in Gross Value Added and jobs.

¹ Ecorys (2009) - http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145613.pdf

² Centre for Economic Policy Research (2013) – <https://www.gov.uk/government/publications/trade-and-investment-agreement-between-eu-and-usa-estimated-impact-on-uk>

- **Electrical Manufacturing** sector is estimated to be significantly positively affected as it imports a large share of its intermediate goods from the US. A reduction of already moderate trade barriers would be expected to drive production costs down, improving the competitiveness of the industry in Scotland and abroad.
- **Food and Drink** industries also have the potential to benefit significantly from the agreement as their exports to the US are large and face some of the greatest regulatory barriers.
- Parts of the **Financial Services** sector, that include US trade-intensive industries, are also facing high non-tariff barriers and could benefit substantially.
- Other sectors, such as **Business Services, Research, Catering and Primary** sectors may benefit less from the agreement and some may see their production costs rise as they compete for factors of production with expanding sectors. However, the modelling results do not suggest any broad sector would experience a considerable contraction.

Whilst in the aggregate the modelling results are broadly in line with those produced by CEPR for the UK, there are notable differences at the industry level. For example, the CEPR study suggests that the Motor Vehicles sector would benefit the most. However, Scotland specific data takes into account limited activity in that sector in Scotland and, hence, limited impacts of the trade agreement.

Office of the Chief Economic Advisor
Scottish Government
April 2015