



Trade Workshop for Overseas Territories, Crown Dependencies and devolved legislatures

Introduction

I attended this workshop in Westminster in February to gain a wider insight and a broader understanding of how Brexit has affected trade policy across the Commonwealth and how different governments and administrations are responding to these challenges.

The UK's decision to leave the European Union presented the UK, Crown Dependencies and Overseas Territories with a unique challenge. It's important to recognise that no-one welcomed the decision. In all sorts of different ways this was a discussion on mitigating the damage done to our relationships and reputations rather than a debate on new opportunities.

For the first time in over 40 years, the UK has been able to independently pursue trade agreements and with this has come a need for greater parliamentary oversight and scrutiny. The workshop sought to explore the international trade landscape across the Commonwealth and the impact of Brexit on UKOTs and devolved nations.

In this short report I have sought to explore the sessions and discussions which are most relevant for Wales.

International Trade Landscape

This opening session of the workshop gave a global overview of trends and patterns in international trade across the Commonwealth today. We had a good debate over the changing patterns of trade across the commonwealth and different regions of the world.

The session started with a briefing on trade within the Commonwealth. Dr Brendan Vickers, Commonwealth Secretariat, shared his perspective on the current international trade landscape and the impact of Covid on international trade and investment, post-Covid economic recovery and the role of technology. The headline of Dr Vickers's contribution was the significance of trade within the Commonwealth: with intra-Commonwealth exports being forecasted to exceed 1 trillion US\$ by 2026. However, it was noted exports in intra-Commonwealth trade are highly concentrated, exemplified by goods and services mainly coming from India and Singapore. Dr Vickers outlined what he considered to be the key outcomes from CHOGM in relation to trade. Heads of State: agreed ambitious actions to boost trade to 2 trillion US\$ by 2030; recognised the importance of trade for inclusive and sustainable economic growth and prosperity; and recognised the need for food security through trade.

Brexit Briefing: The UK seven years after 2016

This discussion centred on the UK's exit from the European Union, the ways in which the UK's trading landscape and parliamentary scrutiny processes have changed since, the future direction that the UK's trading policy may take, as well as Brexit's wider impact. There were good and thought-provoking presentations as I outline below. The debates and discussions focussed on the damage that Brexit is doing to different territories in different parts of the world.

Lord Lansley discussed the role of the House of Lords during Brexit negotiations, in scrutinising agreements with the EU, followed by free trade agreements with Japan, Australia and New Zealand. He was clear that the Lords wanted to hear different voices and were particularly keen to hear from smaller jurisdictions when gathering evidence. Prof Holger Hestermeyer highlighted that the key issue with trade negotiations is that the range of views consulted upon are not broad enough, and often exclude smaller jurisdictions, despite them being directly impacted.

In addition, Professor Hestermeyer further noted that, even when diverse stakeholders are consulted, this occurs too late in the process. He concluded that it is necessary for everyone with an interest to be involved from the beginning of negotiations to secure better outcomes for all stakeholders.

Finally Dr Joelle Grogan discussed the limitations of current parliamentary scrutiny in the UK. The process has not changed since 2010, while the context and content of agreements have changed drastically. There is no legal obligation to seek consent or approach the UK Parliament to negotiate treaties, and no legal requirements for the UK Government to seek the views of Overseas Territories, Crown Dependencies and Devolved Legislatures.

Dr Grogan's overall view was that the negotiation process remains opaque compared to how treaties are led in the EU, providing little to no opportunity to reopen negotiations if a disagreement is found. This was considered a point of particular concern considering commitments laid to trade agreements are binding on future parliaments.

This view was shared by participating Overseas Territories, Crown Dependencies and devolved nations, who believed they were not effectively consulted upon during trade negotiations. All delegates agreed on the need for more formal inter-institutional accountability and scrutiny, to enable all jurisdictions that are directly impacted by agreements can have their say and their voices heard.

Brexit Briefing: Part 2 - The impact of the UK's exit on OTs, CDs and devolved legislatures

This roundtable provided an opportunity to reflect on the ways in which the UK's exit from the EU has damaged the trade and investment landscape of their jurisdictions, exploring the impact of the UK-EU deal, as well as the barriers faced by smaller legislatures in post-Brexit international trade.

From St Helena Hon. Corinda Essex shared the challenges facing St Helena because of Brexit, including a greater reliance on the UK government to meet their financial needs. Hon. Essex further reported that there was little consultation with St Helena during the negotiation stage, despite their reliance on funding from EU programmes.

This was the session where I spoke about the challenges facing Wales, notably the lack of autonomy and mechanisms to resolve disputes resulting from Brexit as well as the direct financial loss. I was very clear that there is no consent from the Senedd for the power grab over post-EU funding arrangements and a clear consensus in the Senedd that consultation has not taken place during post-Brexit trade negotiations, nor sufficiently informed on trade agreements directly impacting the jurisdiction.

Both Corinda and I highlighted the need for diverse voices from Overseas Territories, Crown Dependencies and Devolved Legislatures to be involved at early stages of the negotiation process, to ensure their priorities are also incorporated, as well as to improve the understanding of how agreements will operate in practice.

Behind the Scenes: A Look at the Negotiation Process

This was one of the most fascinating sessions with an in-depth, insider's view from the experiences of former trade negotiators and experts. This insight was invaluable and

there are some committees of the Senedd which would also benefit from hearing these experiences and would learn from this level of expertise.

From the outset Dr Minako Morita-Jaeger noted that, while trade negotiations differ across countries, generally there is interaction between domestic and international law. Dr Morita-Jaeger emphasised that civil society organisations needed to be key stakeholders due to the impact of agreements on policy decisions. She emphasised that cross-departmental conversations are key to ensure non-business stakeholders are heard, such as during the UK-Australia agreement.

This presentation was followed by James Kane who discussed the workings of the UK Government's Department for International Trade (now the Department for Business and Trade), including the consultation process for prospective new trade agreements with parliament and UK business. It is probably fair to say that I took a different view on the effectiveness of this process!

Finally, Dmitry Grozoubinsky spoke on the nature of trade negotiations and how they are opaque to those outside the process. He noted that for parliamentarians not involved in negotiations there is a need to know how much someone is able to influence the process and what tools are available to do so. Identifying a thematic champion in the cabinet room that is involved in the negotiation was highlighted as a key means through which outsiders can influence the process.

From the perspective of Wales, WG officials need to be embedded in the UK trade depts if we are to have any influence at all on the process and the negotiating objectives. There is a precedent for this where WG officials have been seconded to UKRep and UK depts in the past. For the future this co-working will be of greater importance and speaks of the need for a different settlement and working culture to that which exists today.

Fisheries and Trade: Possibilities and Challenges in the OTs and CDs

This session explored the ways in which these nations' fisheries are impacted by issues such as regulatory autonomy, access to waters and quota shares. I was shocked by the impact of Brexit in different parts of the world and shocked how the trade and fisheries policies had been disrupted with no explanation or involvement from any of the territories' governments.

I was especially surprised to understand the impact on the Falkland islands. Hon. Dr Teslyn Barkman discussed the importance of squid and fish to the economy of the Falkland Islands: forming the base of wealth and 30% of government budget being

dedicated to maritime sustainability. Prior to Brexit, Hon. Dr Barkman outlined that one fishery alone made £1.7 billion over the last 9 years, raising the question of how the jurisdiction can continue to grow this revenue outside of the EU when this supported 44% of the Falklands economy. Hon. Dr Barkman summarised that the Falkland Islands were the most effected OT by Brexit in terms of the loss of trade. As they are not currently encapsulated in the EU-UK Trade and Cooperation agreement, parliamentarians are advocating for inclusion and/or their own bespoke agreement with the EU to enable them to sustain their previous trading relationships.

The Sustainable Development Goals and Trade: Connections and Contributions

This session explored the ways in which current trading processes attempt to uphold the Sustainable Development Goals, identifying several steps that could help ensure that international trade acts as an engine for inclusive growth and poverty reduction.

The session was opened by Lord Purvis who discussed the need for effective parliamentary scrutiny to reveal the compatibility of trade agreements with sustainable development goals and human rights concerns. He was also clear that while trade can positively contribute to social and economic justice, there is a need for this to be more systematically incorporated from the beginning of trade negotiations to achieve these aims.

Following this Jean Blavock similarly highlighted the difference between what trade agreements could achieve, compared to what they achieve in practice. Jean discussed the importance of binding and aspirational language in trade deals to ensure agreements act in the interests of equality, sustainability, and development. While there tends to be binding language about market provisions, Jean reported this is rarely used with regards to issues of human rights and sustainability.

Finally Ruth Bergan approached the session from an environmental perspective, drawing attention to the deterioration of sustainable development and environmental inclusion within trade deals, as a result of a lack of overarching strategy following the UK's exit from the European Union. Ruth discussed the Trade Justice Movement's campaign which purports the UK should exit the Energy Charter Treaty to promote transitioning to a low carbon economy and support developing economies in lowering their emissions.

This session emphasised the need in Wales for us to adopt a values-led trade policy and one where an international agreement includes trade but also has many other elements to it – from climate policy to human rights and a cultural exchange.

Reviewing a Free Trade Agreement

This final session led by Professor Michael Gasiorek, provided a conclusion and an overview to apply some of the previous discussions when analysing a free trade agreement. This wide-ranging workshop aimed to ascertain the scope and implications of a free trade agreement (FTA). Professor Gasiorek described that FTAs have increased in complexity and content substantially over the last twenty years, creating more scope for interdependencies. Agreements therefore also differ widely: they will typically have common areas relating to tariffs, but commitments vary. Professor Gasiorek also recommended seeking research and evidence to systematically work through the question above, drawing on official government documents such as scoping and impact assessments, parliamentary inquiries, stakeholder engagement, and independent academic researchers.

Conclusions

This was a fascinating workshop with engaging and insightful speakers. The workshop provided all of us with the opportunity to debate and discuss the impact of Brexit as well as the new trade and policy environment. It is telling that all participants from different parts of the Commonwealth in different parts of the world all felt that Brexit had damaged their trading relationships and their international reputations. Many trade experts also shared this view.

From a Welsh perspective it would be useful to have further conversations with other devolved legislatures as parts of the UK, and with the Crown Dependencies since we share a relationship with the UK Government and a context which is significantly different to other administrations.

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