



Department for International Trade

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Sir William Cash MP
Chair of the European Scrutiny Committee
European Scrutiny Committee
House of Commons
London SW1A 0AA

Our ref:

12th June 2018

Dear Bill,

5191/17 Communication from the Commission to the European Parliament and the Council on Exchanging and Protecting Personal Data in a Globalised World

I am writing in response to your request to include the above-named EU document in a debate on the proposed Council Decisions on the signing and conclusion of the EU-Japan Economic Partnership Agreement (EM 7959/18 and 7960/18). As you will be aware, the Department for Culture, Media and Sport (DCMS) prepared an Explanatory Memorandum on document 5191/17, which was sent to Parliament on 7 February 2017.

Within the context of this file, I have noted your request to debate a draft EU concept proposal about horizontal data provisions and your request that Government respond to two questions that arose in your review of the Commission Communication. These fall under DIT's responsibility to answer:

- a) Regardless of press reports, have these horizontal clauses on data flows in trade agreements informally or formally in COREPER or the Council yet? If so, what is the view of the UK and other Member States? If not, what is the Commission's intention in producing the clauses.
- b) What does Article B achieve, legally-speaking, in terms of personal data flows? Does it provide for mutual trust and mutual recognition by the EU and the third country in question of each other's data so, would the clause satisfy the UK's aspirations for future data-sharing arrangements based on mutual trust as set out in its Future Partnership Paper.

To answer these questions, a draft EU concept paper was released to Member States by the Commission in February. Internal discussions between the Commission and Member States on this paper are still ongoing at working group level and it has not yet been formally placed before the Council as a trade proposal for a specific negotiation by the Commission. The Commission have stated that they will consult the Council and inform the European Parliament whenever they consider tabling the proposal for specific negotiations. The process is currently internally active in the context of ongoing negotiations.

Within these ongoing discussions, there are diverging views among Member States in how to balance robust data protection standards and the flow of data internationally. The UK would like to see ambitious data provisions and will continue to work with the EU to secure these in trade agreements.

We could support and feed into a debate on the content of File 5191/17, and more broadly about what GDPR permits for international transfers and EU Convention 108 concerning The Protection of Individuals with Regard to Automatic Processing of Personal Data.

I am copying this letter to The Lord Boswell of Aynho, Chair of the House of Lords European Union Select Committee. This letter is also copied to the Chairs of the Digital, Culture, Media and Sport Committee, the International Trade Committee, the Business, Energy and Industrial Strategy Committee, the Science and Technology Committee and the Exiting the EU Committee. It is also copied to Mike Winter and Sibel Taner, Clerks of the European Scrutiny Committee, Jennifer Martin-Kohlmorgan, Clerk of the House of Lords EU External Affairs Subcommittee, Les Saunders, DExEU Scrutiny Lead, Agim Zekaj, EU Parliamentary Scrutiny, DCMS and Edwina Osborne, EU Parliamentary Scrutiny, Department for International Trade.

Yours,


RT HON GREG HANDS MP

Minister of State for Trade Policy

Department for International Trade