RE: AMENDMENT NC6 TO THE TRADE BILL 2017-19

ADVICE

INTRODUCTION

Background

1. The Trade Bill 2017-19 ("**the Bill**") will, inter alia, give ministers powers to make secondary legislation (regulations) required to implement certain international trade agreements ("**ITA**"). It applies solely to agreements made with states that already have ITA with the European Union ("**Clause 2 ITA**"). The relevant powers are found in clause 2 of the Bill ("**the Clause 2 Powers**").

2. The debate underlying this advice concerns the scrutiny of (a) ITA, and (b) regulations to implement agreements made using the Clause 2 Powers. If the UK agrees a Clause 2 ITA that substantively replicates the equivalent EU-third state ITA then the provisions of that agreement will have already been subject to the EU's scrutiny process. If a Clause 2 ITA substantially differs from the equivalent EU-third state ITA, however, then it will not have been subject to any form of democratic scrutiny and there is no provision in the Bill to undertake such a process.

3. Amendment 8 ("**A8**") and New Clause 6 ("**NC6**") aim to address the latter circumstance. A8 acts as a "net". It provides that, if (a) a minister wishes to make regulations using the Clause 2 Powers and (b) the relevant ITA differs substantively from the equivalent EU-third state agreement, then the proposed regulations must be subject to further parliamentary scrutiny. At this point, A8 "triggers" NC6. That clause provides for the selection and application of the proper mechanism for parliamentary scrutiny.

Scope

4. I am asked to advise on the extent to which A8 and NC6 will ensure certain significant changes to the current law will be subject to parliamentary scrutiny if they are to be implemented using the Clause 2 Powers. In particular I am asked to advise on whether A8 and NC6 will ensure parliamentary scrutiny of regulations to implement:

   (a) Provisions in an ITA that compel the UK to accept imports of chlorine-washed chicken.

   (b) Provisions in an ITA that compel the UK to accept imports of beef reared using hormone treatments (**"hormone beef"**).

   (c) Provisions in an ITA that erode agricultural standards and protections generally.

   (d) Provisions in an ITA that remove protections for geographical indications ("**GIs**")

5. My conclusions are, in summary, that A8 and NC6 would ensure parliamentary scrutiny of regulations to implement an ITA that (a) requires the UK to accept chlorine-washed chicken or (b) beef reared using hormone treatments, (c) the erosion of most agricultural standards generally, and (d) the removal of protections for GIs.

RELEVANT LAW

The Trade Bill

6. Clause 2 of the Trade Bill provides:

Implementation of international trade agreements

(1) An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing an international trade agreement to which the United Kingdom is a signatory, subject to subsections (3) to (5).

(2) An "international trade agreement" means—

(a) a free trade agreement, or

(b) an international agreement that mainly relates to trade, other than a free trade agreement.

(3) Regulations under subsection (1) may make provision for the purpose of implementing a free trade agreement only if—

(a) the other signatory (or each other signatory) and the European Union were signatories to a free trade agreement immediately before exit day, or

(b) where the regulations are made before exit day, the other signatory (or each other signatory) and the European Union are signatories to a free trade agreement on the day the regulations are made.

(4) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement other than a free trade agreement only if—

(a) the other signatory (or each other signatory) and the European Union were signatories to an international trade agreement immediately before exit day, or

(b) where the regulations are made before exit day, the other signatory (or each other signatory) and the European Union are signatories to an international trade agreement on the day the regulations are made.

(5) Regulations under subsection (1) may not make provision that could be made by regulations under section 9 of the Taxation (Cross-border Trade) Act 2018.

(6) Regulations under subsection (1) may, among other things, make provision—

(a) modifying primary legislation that is retained EU law;

(b) conferring functions on the Secretary of State or any other person, including conferring a discretion;

(c) for the delegation of functions;

(d) for penalties for failing to comply with the regulations.

7. A8 would insert into clause 2 the following provision:

"(4A) In circumstances where –

(a) a free trade agreement in respect of which regulations are to be made does not make the same provision, subject only to necessary changes in terminology, as a free trade agreement referred to in subsection (3)(a) or (b); or

(b) an international trade agreement in respect of which regulations are to be made does not make the same provision, subject only to necessary changes in terminology, as an international trade agreement referred to in subsection (4)(a) or (b);

an appropriate authority must not make regulations under subsection (1) unless the requirements of section [*Regulations: Parliamentary procedure*] have been met."

8. NC6 would insert an entirely new clause into the Bill:

"If the Secretary of State considers it appropriate to proceed with the making of regulations of a type which fall under section 2(4A) (a) or (b)), he or she must lay before Parliament—

(a) a draft of the regulations, and

(b) an explanatory document.

(2) The explanatory document must—

(a) explain under which power or powers in this Act the provision contained in the regulations is made;

(b) introduce and give reasons for the provision;

(c) identify and give reasons for—

(i) any functions of legislating conferred by the regulations; and

(ii) the procedural requirements attaching to the exercise of those functions;

(d) contain a recommendation by the Secretary of State as to which of the following should apply in relation to the making of regulations pursuant to the draft regulations—

(i) the negative resolution procedure (see subsection (6)) or

(ii) the affirmative resolution procedure (see subsection (7)); and

(e) give a reason for the Secretary of State's recommendation.

(3) Where the Secretary of State's recommendation under subsection (2)(d) is that the negative resolution procedure should apply, that procedure shall apply unless, within the 20-day period, either House of Parliament requires that the affirmative resolution procedure shall apply, in which case that procedure shall apply.

(4) For the purposes of this paragraph a House of Parliament shall be taken to have required a procedure within the 20-day period if—

(a) that House resolves within that period that that procedure shall apply; or

(b) in a case not falling within subsection (4)(a), a committee of that House charged with reporting on the draft regulations has recommended within that period that that procedure should apply, and the House has not by resolution rejected that recommendation within that period.

(5) In this section the "20-day period" means, for each House of Parliament, the period of 20 days on which that House sits, beginning with the day on which the draft regulations were laid before Parliament under subsection (1).

(6) For the purposes of this section, the "negative resolution procedure" in relation to the making of regulations pursuant to a draft of the regulations laid under subsection (1) is as follows—

(a) the Secretary of State may make regulations in the terms of the draft regulations subject to the following provisions of this subsection;

(b) the Secretary of State may not make regulations in the terms of the draft regulations if either House of Parliament so resolves within the 40-day period;

(c) for the purposes of this paragraph regulations are made in the terms of the draft regulations if they contain no material changes to the provisions of the draft regulations; and

(d) in this subsection the "40-day period" means, for each House of Parliament, the period of 40 days on which that House sits, beginning with the day on which the draft regulations were laid before Parliament under subsection (1).

(7) For the purposes of this section the "affirmative resolution procedure" in relation to the making of regulations pursuant to a draft of the regulations being laid under subsection (1) is as follows—

(a) the Secretary of State must have regard to—

(i) any representations;

(ii) any resolution of either House of Parliament; and

(iii) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations, made during the 40-day period with regard to the draft regulations;

(b) if, after the expiry of the 40-day period, the Secretary of State wishes to make regulations in the terms of the draft, he must lay before Parliament a statement—

(i) stating whether any representations were made under subsection (7)(a)(i); and

(ii) if any representations were so made, giving details of them;

(c) the Secretary of State may after the laying of such a statement make regulations in the terms of the draft if they are approved by a resolution of each House of Parliament;

(d) if, after the expiry of the 40-day period, the Secretary of State wishes to make regulations consisting of a version of the draft regulations with material changes, he must lay before Parliament—

(i) revised draft regulations; and

(ii) a statement giving details of—

(a) any representations made under subsection (7)(a)(i); and

(b) the revisions proposed;

(e) the Secretary of State may, after laying revised draft regulations and a statement under sub-paragraph (d), make regulations in the terms of the revised draft if they are approved by a resolution of each House of Parliament;

(f) for the purposes of sub-paragraph (e) regulations are made in the terms of the draft regulations if they contain no material changes to the provisions of the draft regulations; and

(g) in this paragraph the "40-day period" has the meaning given by subsection (6)(d).

(8) The provisions of this section shall apply to all agreements for which regulations would be of a type which falls under section 2(4A) (a) or (b)), notwithstanding that they constitute retained EU law and may be governed by the provisions of the European Union (Withdrawal) Act 2018 or any other legislation with regard to Parliamentary scrutiny of regulations under this Act."

The EU Withdrawal Bill 2017-19

9. Clause 2 of the EU Withdrawal Bill ("**the Withdrawal Bill**") provides for EU derived domestic legislation to have effect after Brexit:

"(1) EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day.

(2) In this section "EU-derived domestic legislation" means any enactment so far as—

(a) made under section 2(2) of, or paragraph 1A of Schedule 2 to, the 10 European Communities Act 1972,

(b) passed or made, or operating, for a purpose mentioned in section 2(2)(a) or (b) of that Act,

(c) relating to anything—

(i) which falls within paragraph (a) or (b), or 15

(ii) to which section 3(1) or 4(1) applies, or

(d) relating otherwise to the EU or the EEA,
but does not include any enactment contained in the European Communities Act 1972…"

10. Clause 3 provides for EU legislation with direct effect to be incorporated into domestic law after Brexit:

> "(1) Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day.
> In this Act "direct EU legislation" means—
>
> (a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before exit day and so far as—
>
> (i) it is not an exempt EU instrument (for which see section 14(1) and Schedule 6),
>
> (ii) it is not an EU decision addressed only to a member State other than the United Kingdom, and 10
>
> (iii) its effect is not reproduced in an enactment to which section 2(1) applies,
>
> (b) any Annex to the EEA agreement, as it has effect in EU law immediately before exit day and so far as—
>
> (i) it refers to, or contains adaptations of, anything falling within 15 paragraph (a), and
>
> (ii) its effect is not reproduced in an enactment to which section 2(1) applies, or
>
> (c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before exit day.
>
> (3) For the purposes of this Act, any direct EU legislation is operative immediately before exit day if—
>
> (a) in the case of anything which comes into force at a particular time and 25 is stated to apply from a later time, it is in force and applies immediately before exit day,

(b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before exit day, and

(c) in any other case, it is in force immediately before exit day."

11. Clause 4 transposes certain rights enjoyed under EU law into domestic law:

> (1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day—
>
> (a) are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and
>
> (b) are enforced, allowed and followed accordingly,
>
> continue on and after exit day to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) …"

12. Clauses 6-8 of the EU Withdrawal Bill allow ministers to make alterations to the EU law that is transposed through Clauses 2-4 ("**the Clause 6-8 Powers**).

Chlorine-washed Chicken

13. Regulation EC/835/2004 ("**the Food Hygiene Regulation**") provides for the minimum standards of animal welfare and hygiene in animals raised for food products. Article 3 provides, at subsection 2:

> "Food business operators shall not use any substance other than potable water – or, when Regulation EC/854/2004 or this Regulation permits its use, clean water – to remove surface contamination from products of animal origin, unless use of the substance has been approved in accordance with the procedure referred to in Article 12(2). Food business operators shall also comply with any conditions for use that may be adopted under the same procedure. The use of an approved substance shall not affect the food business operator's duty to comply with the requirements of this Regulation."

14. Article 6 of the Food Hygiene Regulation governs the import of foodstuffs from outside the EU. It provides:

> "1. Food business operators importing products of animal origin from third countries shall ensure that importation takes place only if:
>
> (a) the third country of dispatch appears on a list, drawn up in accordance with Article 11 of Regulation EC/854/2004, of third countries from which imports of that product are permitted;
>
> …
>
> (c) the product satisfies:
>
> (i) the requirements of this Regulation, including the requirements of Article 5 on health and identification marking;
>
> (ii) the requirements of Regulation EC/854/2004; and
>
> (iii) any import conditions laid down in accordance with Community legislation governing import controls for products of animal origin…"

15. Article 11 of Regulation EC/854/2004 ("**the Official Controls Regulation**") provides:

> "Products of animal origin shall be imported only from a third country or a part of third country that appears on a list drawn up and updated in accordance with the procedure referred to in Article 19(2)."

16. Article 12 of the Official Controls Regulation provides:

> "Products of animal origin may be imported into the Community only if they have been dispatched from, and obtained or prepared in, establishments that appear on lists drawn up and updated in accordance with this Article…"

17. The states which appear on the list compiled under Article 11 of EC/854/2004 in relation to poultry are: Argentina, Brazil, Canada, Chile, China, Israel, Russia, Serbia, St Pierre and Miquelon, Thailand, Ukraine, and the United States. There are 29 establishments listed in the United States for the purposes of Article 12. This means that only imports of chicken from these establishments are permitted to enter the EU from the US.

18. Directive 2007/43/EC ("**the Chickens Directive**") sets out minimum standards of space that must be accorded to poultry when raised for producing meat. Article 3 provides:

> "1. The Member States shall ensure that:
>
> (a) all houses comply with the requirements set out in Annex I;
>
> (b) the required inspections and the monitoring and follow-up, including those provided for in Annex III, are carried out by the competent authority or the official veterinarian.
>
> 2.Member states shall ensure that the maximum stocking density in a holding or a house of a holding does not at any time exceed 33 kg/m^2.
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> 3. By way of derogation from paragraph 2, Member States may provide that chickens be kept at a higher stocking density provided that the owner or keeper complies with the requirements set out in Annex II, in addition to the requirements set out in Annex I.
>
> 4. Member States shall ensure that, when a derogation is granted under paragraph 3, the maximum stocking density in a holding or a house of a holding does not at any time exceed 39 kg/m^2."

19. The Chickens Directive is implemented in English law by the Welfare of Farmed Animals (England) (Amendment) Regulations 2010 ("**the 2010 Regulations**"). Paragraph 3 of Schedule 5A provides:

"**Stocking Density Limits**
(1) Unless sub-paragraph (2) applies, the stocking density must not exceed 33 kilograms per m^2 of usable area."

Hormone Beef

20. Directive 96/22/EC, as amended by Directive 2003/74/EC ("**the Hormone Directive**") prohibits the use of most hormone treatments when raising cattle. The Hormone Directive permits the use of hormone treatment by vets in certain, limited, situations. Articles 2-3 of the Hormone Directive (as amended) provides:

"**Article 2**
Member States shall prohibit:

(a) the placing on the market of the substances listed in Annex II, list A, for administering to animals of all species;

(b) the placing on the market of the substances listed in Annex II, list B, for administering to animals, the flesh and products of which are intended for human consumption, for purposes other than those provided for in point 2 of Article 4 and in Article 5a.

Article 3

Member States shall prohibit, for substances listed in Annex II, and shall provisionally prohibit, for substances listed in Annex III:

(a) the administering of those substances to farm or aqua-culture animals, by any means whatsoever;

(b) — the holding, except under official control, of animals referred to in point (a) on a farm, and

— the placing on the market or the slaughter for human consumption of farm animals,

which contain the substances referred to in Annex II and Annex III or in which the presence of such substances has been

established, unless proof can be given that the animals in question have been treated in accordance with Articles 4, 5 or 5a;

(c) the placing on the market for human consumption of aquaculture animals to which substances referred to above have been administered and of processed products derived from such animals;

(d) the placing on the market of meat from animals referred to in point (b);

(e) the processing of the meat referred to in (d)."

21. The Hormone Directive is implemented in UK law by the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015 ("**the 2015 Regulations**"). Regulation 3 provides:

> "(1) Subject to paragraph (2), no person may sell for administration to any animal any product which is, or which contains, a list A substance or a list B substance, if the animal or any product of that animal is intended for human consumption.
>
> (2) Paragraph (1) does not apply to the sale of a product that complies with the requirements of regulation 25 and which is for administration in accordance with regulation 27.
>
> (3) Any product sold which is, or which contains, a list A substance or a list B substance is to be presumed, unless the contrary is proven, to have been sold for administration to an animal which is, or any product of which is, intended for human consumption."

22. Regulation 5 provides:

> **"**(1) Subject to paragraph (2), no person may administer or knowingly cause or permit to be administered to any animal any product which is, or which contains, a substance listed in Annex II or III to Council Directive 96/22.

(2) The prohibition in paragraph (1) does not apply to the administration of a compliant veterinary medicinal product—

(a)containing testosterone, progesterone or a derivative of these substances which readily yields the parent compound on hydrolysis after absorption at the site of application, if the administration is in accordance with regulation 26;

(b)containing allyl trenbolone or a beta-agonist, if the administration is in accordance with regulation 27; or

(c)having oestrogenic action (but not containing oestradiol 17b or its ester-like derivatives), androgenic action or gestagenic action, if the administration is in accordance with regulation 28.

(3) In paragraph (2), "compliant veterinary medicinal product" means a veterinary medicinal product which complies with the requirements of regulation 25."

Geographical Indications

23. Regulation EC/510/2006 ("**the GI Regulation**") sets out the EU law on GIs. It provides for two species of GI: Protected Geographical Indication ("**PGI**") and Protected Designation of Origin ("**PDO**"). The GI Regulations provide for a producer of an agricultural product or foodstuff to use information about the origin of the product in their sales and marketing if there is a link between the characteristics of the product and its place of origin. The GI Regulations also prevent the use of a geographical location in the description or marketing of a product if that product does not have a link with that location. Regulation EC/1493/1999 ("**the Wine Regulation**") makes similar provisions for wine. The GI Regulation and Wine Regulation are supplemented by Regulations EC/1898/2006, EC/628/2008, EC/509/2006, and Directive EC/2000/13.

DISCUSSION

Initial Observations

24. A8 and NC6 are intended to work cooperatively: A8 triggers NC6. It follows, then, that both must be added to the Bill for either to become effective. NC6 could work independently in much the same manner if sub-clause 1 was amended to read "If the Secretary of State considers it appropriate to proceed with *regulations or any other legislation under Section 2*…". Alternatively, A8 could be incorporated into NC6. Tabling the two amendments separately makes no legal difference (so long as they are both passed) because both will become part of the same bill.

25. Amendments 6 and 7 also address the lacuna between those ITA that are substantively the same as the equivalent EU agreement and those that are substantively different. They prevent the minister from exercising the Clause 2 Powers if, respectively, a free trade agreement differs substantively from its EU-third state equivalent (Amendment 6) and if an ITA other than a free trade agreement differs from the equivalent agreement (Amendment 7). They do not, however, provide for any form of scrutiny of the proposed agreements or of regulations made pursuant to those agreements.

26. Both amendments relate solely to the regulations made to implement an ITA. They do not bite on the making of the ITA itself. This raises two issues:

    (a) Neither amendment provides for parliamentary scrutiny of an ITA itself. They may, however, have the effect of indirectly increasing the role of Parliament in the scrutiny of ITA by incentivising ministers to include Parliament at an earlier stage of the negotiation process so as to avoid agreeing an ITA that they will not be able to implement.

(b) Ministers would be able to ratify an ITA (using section 20 of the Constitutional Reform and Governance Act 2010) but, in theory, be prevented from taking implementing regulations.

27. The Trade Bill itself only applies to Clause 2 ITA. If the government makes an agreement with a state that does not already have an equivalent agreement with the EU, then it will not be able to implement it using the powers in the Trade Bill.

Chlorine-Washed Chicken

28. Chlorine-washed chicken is prohibited in EU law. Articles 3 and 6 of the Food Hygiene Regulation provide that poultry cannot be washed in anything except water [**§§14-15**]. Articles 11 and 12 of the Official Controls Regulation provide that only institutions that conform to certain (inter alia) hygiene standards can import poultry meat to the EU [**§§16-17**]. Only 29 US establishments are permitted to do so (from which we can assume that these sites do not chlorine-wash the poultry they produce) [**§18**].

29. Article 3 of the Chickens Directive (implemented in the UK by the 2010 Regulations) provides that chickens reared for meat must be given a certain amount of space per-bird [**§19-20**]. This is relevant because chlorine washing is only necessary when chickens are kept too close together. The danger in chlorine washing does not appear to come from the process of washing itself but the fact that chlorine-washed chickens are raised in very cramped conditions, increasing the risk of infection. It is not the chlorine-washing that creates the danger but the possibility that it might not be a sufficiently effective anti-bacterial process.[1] The Chickens Directive ensures that birds cannot be reared in such cramped conditions that the risk of disease is cannot be effectively eliminated through washing with water.

[1] https://theconversation.com/chlorine-washed-chicken-qanda-food-safety-expert-explains-why-us-poultry-is-banned-in-the-eu-81921

30. The Food Hygiene Regulations and Official Controls Regulations will both be transferred into UK law by clause 3 of the Withdrawal Bill [**§11**]. The Chickens Directive is already given effect in domestic law by the 2010 Regulations [**§20**]. These will be saved in domestic law by clause 2 of the Withdrawal Bill [**§10**]. If a Clause 2 ITA required that the UK accept chlorine-washed chicken, a Minister of the Crown would have the power, under clause 2 of the Trade Bill [**§7**], to alter the Food Hygiene Regulations, the Official Controls Regulations, and the 2010 Regulations.

31. Any ITA made between the EU and a third state would, for obvious reasons, not contain provisions requiring that either party accept imports of chlorine-washed chicken. A Clause 2 ITA could, therefore, only contain such a provision if it differed substantively from the equivalent EU-third state ITA. Implementation regulations made using the Clause 2 Powers would be caught by A8 (or an amended NC6). This would trigger the provisions of NC6.

32. NC6 would, therefore, catch an attempt to change the existing law on chlorine-washed chicken pursuant to a Clause 2 ITA. It would not catch an attempt to do so pursuant to an ITA that does not fall within Clause 2. In the case of a non-Clause 2 ITA, however, the government would not have the power to enact implementing regulations under the Trade Bill and would require some other statutory basis to implement the agreement.

Hormone Beef

33. The Hormone Directive provides for a prohibition on hormone beef except in tightly controlled circumstances [**§21**]. It is implemented in English law by the 2015 Regulations [**§22**]. The 2015 Regulations will be saved after Brexit Day by clause 2 of the Withdrawal Bill (subject to the exercise of Clause 6-8 Powers) [**§§10-13**]. If a Clause 2 ITA contained a provision requiring the UK to accept hormone beef then implementing that agreement would require amendment of the 2015 Regulations. Such an amendment would require the exercise of the

Clause 2 Powers [**§7**] and, given that the relevant ITA would necessarily differ substantively from the equivalent EU-third state ITA, would be caught by A8 and thus trigger NC6. Hormone Beef would, therefore, be caught by NC6. The implementing regulations would, consequently, likely be subject to parliamentary scrutiny.

Agricultural Standards and Protections

34. EU agricultural standards and protections are generally contained within EU legislation. For this reason, they will (subject to the exercise of Clause 6-8 Powers) be transferred into domestic law on Brexit day by clause 2 or clause 3 of the Withdrawal Bill [**§§10-13**]. If a Clause 2 ITA was to require that an agricultural standard or protection be abridged, then it would, necessarily, not reflect the equivalent EU-third state FTA. An implementing measure and would therefore likely be caught by A8 and trigger NC6.

35. Agricultural standards and protections to which this analysis applies include:

    (a) Food standards – including safety, traceability, and recall requirements – contained, inter alia, in Regulation EC/178/2002. These will be transposed into domestic law by clause 3 of the Withdrawal Bill (subject to the exercise of Clause 6-8 Powers) [**§11 and 13**].

    (b) The Common Agricultural Policy (**"CAP"**)– including farm subsidies – contained in Regulations EU/1305/2013, EU/1306/2013, EU/1307/2013, and EU/1308/2013, and implemented by clause 3 of the Withdrawal Bill (subject to the exercise of Clause 6-8 Powers) [**§§12-§13**]. It should be noted, however, that the CAP is heavily dependent on interlinked EU institutions and will therefore likely be substantially altered (using the Clause 6-8 Powers) when it is transposed into domestic law.

Geographical Indications

36. GIs are principally contained in the GI Regulation and the Wine Regulation. Both regulations will be transposed into domestic law by clause 3 of the Withdrawal Bill (subject to the exercise of Clause 6-8 Powers). Any Clause 2 ITA that contains provision to remove GIs will therefore require implementing regulations that amend or repeal, inter alia, the GI Regulation and the Wine Regulation. An ITA that requires such regulations will necessarily be substantively different from the equivalent EU-third state ITA and will, therefore, be caught by A8 and trigger NC6.

CONCLUSIONS

37. A8 and NC6 are intended to operate in tandem. One will not be effective without the other. They relate solely to the scrutiny of regulations to implement an ITA. They do not provide for scrutiny of the ITA itself.

38. If A8 and NC6 become law as part of the Bill they will ensure that Parliament is able to scrutinise regulations to implement ITA that require the UK to accept chlorine-washed chicken and/or hormone beef, degrade protections and safeguards for the agricultural sector, or abolish geographical indications.

39. If I can be of any further assistance in this matter please do not hesitate to contact my Clerk, Alex Hill (alexh@cornerstonebarristers.com, 0207 421 1810).

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3 May 2018