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Baroness Taylor of Bolton
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30 December 2020

REPORT ON THE EU (FUTURE RELATIONSHIP) BILL

Dear Ann,

I wish to draw two errors in your report on the EU (Future Relationship) Bill to your attention. I would be very grateful if you would bring the corrections below to the attention of members ahead of the debate this afternoon.

You state in paragraph 6:

However, the European Union is giving provisional effect to the TCA until 28 February 2021 such that European Parliament has time to scrutinise and consent to the agreement. The Government should explain its reasons for not seeking provisional application of the Trade and Cooperation Agreement in the UK, such that Parliament and the public would have had more time to scrutinise the agreement and the legislation giving effect to it.

This is incorrect in two ways.

First, both the UK and the EU have agreed to provisionally apply the Trade and Cooperation Agreement (TCA). That is set out in Article FINPROV.11(2) of the TCA. Therefore, the UK is provisionally applying the TCA. Clause 32 of the Bill provides the ability to end, suspend or resume provisional application in the event that the UK or the EU do not ratify the agreement. That clause also applies to the Security of Classified Information Agreement (see Article 19 of that agreement) and the Nuclear Cooperation Agreement which are also being provisionally applied. This morning (30 December) the UK and EU exchanged diplomatic letters agreeing to provisionally apply the Nuclear Cooperation Agreement.

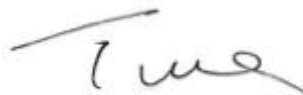
Clause 29 works alongside several other provisions in the Bill to enable provisional application:

- A gloss in the interpretation provisions at clause 37(3) which allows references in the Bill to the Agreements to be read as references to the Agreements as provisionally applied;
- The definition of “relevant day” in clause 29(4) general implementation of agreements which makes the provision in 29(1) (which requires pre-existing domestic legislation to be read as if it was compliant with the Agreements) work in a provisional application scenario from the time the Agreements are provisionally applied;
- the commencement power at clause 40(7) which gives flexibility to turn provisions in the Bill on as and when they are needed

Secondly, the UK would not be able to give effect to the Agreements - and meet its international obligations - without the passage of this legislation. In the UK’s dualist legal system domestic law must be brought into line with international law through legislation. This is the case whether applied provisionally or fully in force. It is distinct from the legal order in the EU and its Member States where the agreement will apply directly as part of EU law. We are giving effect in domestic legislation to the Agreements being provisionally applied in the same way as we would were we ratifying the Agreements immediately. The difference is being able to end or suspend application, as I have referred to above. The passage of the provisions in this Bill will, of course, be a necessary precondition when we do come to ratify the Agreements.

I am grateful for the quick attention that you have given to this matter ahead of the debate this afternoon. I look forward to working with you today to pass the Bill.

Kind regards,

A handwritten signature in black ink, appearing to read 'True', with a horizontal line above it.

Lord True CBE