

Exiting the European Union Committee
Role of Parliament Inquiry
Submission by Open Rights Group

1. Open Rights Group is a UK organisation focusing on the respect and protect for human rights in the digital age. Open Rights Group works on issues of privacy, freedom of expression and surveillance.
2. As the United Kingdom prepares to exit from the European Union it is vitally important that the public are given opportunity through Parliament to influence debates on future agreements. The United Kingdom will be new to trade negotiations and further digital trade is only just coming to prominence in the international trade sphere.
3. Open Rights Group's response will focus on digital trade, a topic that is only just beginning to gain prominence in the international trade sphere. Digital Trade is more than just selling consumer electronics. It involves setting data flows, agreeing standards of data localisation, intellectual property, algorithmic transparency. It was only at the beginning of this year 76 World Trade Organisation members launched talks on e-commerce.
5. These issues can have a direct impact on human rights, such as the standards of privacy applied to UK citizens' data in discussing data flows or data localisation, or access to information via net neutrality or intellectual property debates. This reinforces the need for a democratic process to be undertaken in any future negotiations, or any changes to roll-over agreements, so as not to allow human rights to be bartered with in a trade discussion.
4. Open Rights Group summary of recommendations:
 - a. Parliament should have a direct role in setting the mandate for negotiating international treaties, regardless of whether it is a deal or no deal Brexit.
 - b. The Government should adopt a presumption of transparency and the standards for publishing trade policy documentation should be equivalent to the EU level.
- 6. Parliament's role in scrutinising future agreements**
7. At the moment, where agreements are signed in Europe, all institutions have an important role to play. After the Council authorises the Commission to begin negotiations, the Parliament alongside the Council enters to inform the Commission's negotiations with the partner country. At the end of the process, the European Parliament is given the opportunity to provide its consent to the international agreement.
8. While negotiating the European Commission keeps the Parliament fully informed and holds meetings with civil society and publishes: position papers; proposed texts for the

agreement; reports of negotiations; impact assessments; background papers; and factsheets. This should, at a minimum, be replicated at the UK level.

9. Further, Government should seek a mandate from Parliament before negotiations begin, a committee within Parliament should assess the process of international agreements, and the proposed agreement must be put to a full vote by the Parliament. This would provide that the Parliament has an early role to play in setting the mandate, a role to play throughout by scrutinising the negotiations via Committee, and a final say on the agreement itself. Each of these stages are vital, to include Parliamentary and public opportunity to understand, advise, and ultimately be involved in future agreements.
10. These standards should be in place regardless of the deal, or no deal, the UK leaves the European Union with. These matters will go beyond the future relationship with the EU, including trade with other countries and regions.
11. Historically, trade deals have been shrouded in secrecy, with the executive branch claiming exclusive prerogative as part of their role in maintaining international relations. In the past twenty years, as trade issues have expanded into myriad socio-economic spheres - such as IP - generating vigorous debate, this lack of transparency has become unsustainable. Even as recently as in the Anti-Counterfeiting Trade Agreement and Trans Pacific Partnership negotiations, civil society has been forced to rely on leaks for information and public media interventions for engagement.
12. The current situation in Parliament and elsewhere demonstrates the difficulties in finding a social consensus around Brexit and the kind of trade policy that should follow from it. The limited public debate on trade deals so far has quickly led to concerns about food safety and public services. In this situation we think that transparency, including access to draft texts and positions, will be critical to maintain legitimacy.

13. Transparency

14. Open Rights Group backs the recommendation made in the International Trade Committee in their recent report from December 2018:
15. *If the Government wishes to increase public trust in UK trade policy, it should operate with a presumption of transparency. All documentation relating to trade negotiations should be made available unless there is a genuine and reasonable justification for keeping specific documents confidential, such as the risk of undermining the UK's negotiating position. The Government must, as a minimum, publish trade policy documentation equivalent to that which is published at the EU level.*