



Lord True CBE
Minister of State
Cabinet Office 70 Whitehall London SW1A 2AS

The Lord Purvis of Tweed
House of Lords
SW1A 0PW

Our reference: MC2022/11333

11th July 2022

Dear Lord Purvis,

**PROCUREMENT BILL - GOVERNMENT COMMUNICATIONS HEADQUARTERS
AND INTERNATIONAL TRADE AGREEMENTS**

Thank you for your contribution to the debate on the Procurement Bill during the first day of Committee on Monday 4 July 2022. I would like to follow up on your important point relating to Government Communications Headquarters (GCHQ) and our international trade agreements.

GCHQ currently relies extensively on the various exemptions set out in the UK's domestic procurement regulations – the Defence and Security Public Contracts Regulations 2011 and the Public Contracts Regulations 2015, as applicable. For practical purposes, because of the sensitive nature of the GCHQ's work, and the volatility and severity of the security threat, exemptions will apply to its procurement activities.

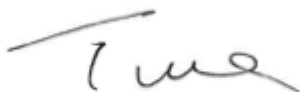
Note 3 to Section A of Annex 16A (Schedule of the United Kingdom) of the UK/Australia Free Trade Agreement ("FTA") excludes all procurements by entities operating in the fields of defence and security except for non-sensitive and non-warlike materials in Section D (Section D sets out the specific goods covered by the FTA). Such entities would include GCHQ. Even if GCHQ did require such "non-sensitive and non-warlike materials" in sufficient quantities to exceed the relevant thresholds, non-sensitive items listed in Section D would be rendered sensitive because of the reasons provided in the paragraph above, and therefore would have to be procured through secure channels and subject to rigorous security protections relying on the general security exception under Chapter 31.2 of the FTA.

This is the case for other trade agreements. For example, GCHQ is also included in the UK's market access schedules in the WTO GPA but similarly, its procurement activities would fall under the national security exemptions contained in Article III of the agreement.

Therefore, it is not considered that exempting GCHQ from the requirements of the Procurement Bill alters the balance of UK rights and obligations in respect of this, or any other FTAs.

Thank you again for your engagement on this legislation, I will be writing further to this to answer your remaining questions. I will also deposit this letter in the House Library.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'True', with a long horizontal stroke above the first letter.

Lord True CBE