

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM No 2**  
**TRADE (COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP) BILL**

1. This Supplementary Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the Senedd if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Bill was introduced to the House of Lords (“HoL”) on 8 November 2023 and the Report Stage took place on 16 January. The Bill can be found at: <https://bills.parliament.uk/publications/53770/documents/4303>
3. One government amendment, laid on the 8 January 2024 was agreed at the HoL Report Stage on 16 January relating to Clause 4, Designations of Origin and Geographical Indications. This can be found here: [HL Bill 4—R\(a\)](https://bills.parliament.uk/publications/53770/documents/4303) ([parliament.uk](https://bills.parliament.uk/publications/53770/documents/4303))

**Policy Objectives**

4. The UK Government’s (UKG) stated policy objective for the Bill is to provide the necessary measures for changes in domestic legislation to meet its obligations under the Comprehensive and Progressive Trans-Pacific Partnership (“CPTPP”) free trade agreement, relating to the entry into force. Specifically, this relates to technical barriers to trade (TBT), government procurement, and intellectual property (IP).

**Summary of the Bill**

5. The Bill is required to enable the implementation of the CPTPP Agreement, specifically to amend areas of UK domestic legislation. The Bill must be in force before formal entry into force of the Agreement to ensure that the UK is not in breach of any obligations set out in the Agreement.
6. The Bill contains eight clauses and one schedule, including:
  - **Clause 1** – defines the meaning of the CPTPP and the UK accession protocol for the purposes of the bill.
  - **Clause 2** – Treatment of Conformity Assessment Bodies, gives the Secretary of State a power by regulations to implement Art 8.6 of the CPTPP by amending subordinate legislation. Art 8.6 requires the UK not to discriminate against conformity assessment bodies located in other CPTPP territories in favour of bodies located in UK territory, or in favour of

bodies located in one CPTPP territory over those located in another CPTPP territory.

- **Clause 3** - Government Procurement, sets out the amendments that will apply to domestic government procurement regulations to enact the additional obligations included in the CPTPP Agreement.
- **Clause 4** - Designations of Origin and Geographical Indications (GIs) – The CPTPP’s intellectual property chapter covers several areas, including patents, GIs, copyright and related rights, trademarks and designs. The chapter sets minimum standards of protections in CPTPP parties’ domestic regimes.
- **Clause 5** - Performers’ Rights. This clause adds two new kinds of protections in respect of performers’ rights under the Copyright, Designs and Patents Act 1988. It also amends a power to restrict performers’ rights in certain cases. That power allows the Secretary of State to restrict the protection afforded to a performance other than in cases where the performers’ rights exist by reference to a connection with the UK, the Channel Islands, the Isle of Man and Gibraltar.
- **Clause 6** – Territorial Extent, sets out the jurisdictions in which the Bill provisions will form part of the law.
- **Clause 7** - Commencement, sets out the dates on which the Bill provisions come into force.
- **Clause 8** – Short Title, sets down how the Bill may be cited as the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2023.

### **Provisions in the Bill for which consent is required**

7. The Welsh Government laid a legislative consent memorandum on 8 Dec 2023, based on the Bill as introduced into Parliament on 8 November 2023. That legislative consent memorandum covered Clauses 2,3 and 4 and can be found within: [LEGISLATIVE CONSENT MEMORANDUM \(senedd.wales\)](https://www.senedd.wales/legislation/legislative-consent-memorandum)

### **Supplementary provisions in the Bill for which consent is required**

#### Amendment of Clause 4 - Designations of Origin and Geographical Indications

8. Since the publication of the first memorandum, an amendment of clause 4 of the Bill has been agreed at the Report Stage in the House of Lords (“the Agreement”).
9. The Amendment will further modify Article 54 (*cancellation*) of Regulation (EU) 1151/2012 to insert a new paragraph 1B which clarifies the test for cancelling a

protected Designation of Origin or Geographical Indication where the registered name of the Designation of Origin or Geographical Indication has been the subject of a name change application under Article 53 (*amendment of a product specification*), of Regulation (EU) 1151/2012. Where the name of the Designation of Origin or Geographical Indication has been changed, an application to cancel made under paragraph 1A of Article 54 will be possible only if the grounds for cancellation existed at the date of the application for amendment to the name of the Designation of Origin or Geographical Indication made under Article 49 as applied by Article 53(2) (rather than the date of the original application for registration), or if there have been a number of applications to change the name, the latest of those applications.

10. This is a complicated area of law where Designations of Origin or Geographical Indications have been intertwined with both the common agricultural market and intellectual property and arguments are finely balanced as to where the dividing line might lie in respect of what is reserved and what is devolved. The Welsh Government's view is that a Supplementary LCM is appropriate in relation to the Amendment regardless because clause 4 clearly impacts the devolved areas of agri-food.

#### **UKG view on the need for consent**

11. UKG only consider clause 3 (Procurement) of the Bill to engage the Sewel Convention by legislating on matters which are within devolved competence. Welsh Government does not agree with this as stated within: [LEGISLATIVE CONSENT MEMORANDUM \(senedd.wales\)](#).

#### **Reasons for making these provisions for Wales in the UK Trade (Comprehensive and Progressive Trans-Pacific Partnership) Bill**

12. The proposed Amendment to Clause 4(4) implements CPTPP obligations in a narrow policy area and in a legal landscape which is complex and contested. Welsh Government recommends that consent is given because there is no policy divergence between the UK Government and Welsh Government on the issue being implemented, and because in view of the scope of what is being done and the complexities involved it makes sense for this provision to be made in this Bill at this time.
13. On this basis, we would be recommending that the Senedd grants legislative consent to the Amendment.

#### **Financial implications**

14. While there are no direct financial implications for the Welsh Government or the Senedd arising from the powers under the Bill, there will be significant financial implications for Wales from our future trade relationships in its overall economic effect.

## **Conclusion**

15. The Welsh Government recommends consent to the Amendment.

**Lesley Griffiths AS/MS**

**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd**

**Minister for Rural Affairs and North Wales, and Trefnydd**