

This paper provides a general update to the TEO Committee on EU Exit matters and includes responses to the issues raised by the Committee in its correspondence 4 March as *indicated* in each section of the paper.

Executive Committee (considering EU Exit Matters)

1. In line with the commitment in *New Decade New Approach (NDNA)* the Brexit Sub-Committee was established on 4th February 2020, as a non-decision making body and included representation from each of the Parties on the Executive. A copy of its Terms of Reference were placed in the Assembly Library.
2. In recognition of the fact that the Executive needs to be able to respond in an agile manner to ensure that its view is appropriately reflected in negotiations, the Executive agreed to replace the Brexit Sub-Committee (which had no decision-making powers) with an arrangement whereby certain specific meetings of Executive Committee now have a single agenda focus on EU Exit Related Matters.
3. The Brexit-Sub Committee and subsequently the Executive (meeting to consider EU Exit Matters) has met on five occasions. Matters considered have included, amongst others:
 - East/West movement of goods and North/South services;
 - SPS requirements and fisheries;
 - Issues relating to justice, security, aviation and transport.

The Executive has agreed its principles for negotiation for engagement on future trade and security partnerships, a copy of which is attached at Appendix A and will be considering its more detailed priorities for all negotiations at forthcoming meetings.

Ireland/Northern Ireland Protocol

4. The Ireland/Northern Ireland Protocol ('Protocol') is an integral part of the Withdrawal Agreement negotiated between the UK and the EU. The Protocol will come into effect at the end of the transition period in a manner consistent with the outcome of trade negotiations. At present, there remains a lack of clarity around what implementation of the Ireland/Northern Ireland Protocol will fully entail.
5. The First Minister and deputy First Minister have secured regular meetings to discuss Protocol issues with the Chancellor of the Duchy of Lancaster, Rt Hon Michael Gove MP (CDL) and will be using these as a mechanism to highlight where particular clarity is required, and where there may be particular issues that require resolution.
6. The first meeting took place on 10 March. The First Minister and deputy First Minister will continue to press for clarity around Protocol issues and associated commitments in NDNA, and to highlight the pressing need to understand the timeline for legislation on unfettered access.
7. Discussions on the implementation of the Protocol with the other devolved administrations are also ongoing.

Legislation and the Protocol

Is there any indication of when legislation to implement the Protocol will be progressed; what legislation will be dealt with at Westminster and what will be dealt with by devolved legislatures?

In relation to a legislative programme for EU exit issues, is there any indication at this stage which legislation will be brought through the Assembly?

How will dynamic alignment with the Protocol work i.e. how will the Executive know if/when/how legislation under the Protocol is changing and will the Assembly have a role in the legislative process (apart from the formal democratic consent mechanism)?

8. Work to explore the volume of legislation required to implement the Protocol is ongoing and officials in TEO are continuing to liaise with NI departments and UK Government Departments. However the lack of clarity around the Protocol provides a challenge in this regard and given the interdependency between the Protocol and negotiations some of the legislative requirements may not become clear until later in the year. TEO officials have started to consider the mechanisms that will be needed for tracking and monitoring relevant EU legislation during and after the transition period and we will liaise with Assembly officials in due course regarding the Assembly role in relation to these mechanisms.
9. Should there be a requirement to bring legislation through the Assembly, this will be tabled by the relevant Executive Department and subject to the usual process. There is also potential for requests for legislative consent requests from UK Government in relation to relevant forthcoming Westminster legislation, and TEO officials are currently liaising with Assembly officials on the process for such requests.

Joint Committee/Specialised Committee

How does the Department plan to engage with the Committee in relation to the Joint Committee/Specialised Committee e.g. will the Committee get advance sight of agendas, notice of issues Ministers plan to raise/positions adopted etc. and will the Committee be updated after meetings?

10. The New Decade New Approach (NDNA) includes a commitment from the UK Government to ensure that NI Executive representatives are invited to take part in meetings of the Joint Committee and Specialised Committee at which Northern Ireland specific matters are discussed, and at which representatives from the Irish Government attend as part of the EU delegation.

[REDACTED]
TEO Committee Briefing / March 2020

11. The first meeting of the Joint Committee, which is required to oversee the implementation of the Withdrawal Agreement took place on 30th March. The meeting was co chaired by the Chancellor of the Duchy of Lancaster, the Rt. Hon. Michael Gove M.P. and European Commission Vice-President Maroš Šefčovič. The NI Executive was represented by Junior Ministers Gordon Lyons (MLA) and Declan Kearney (MLA).

12. The meeting took place remotely and the agenda for the meeting on the 30th March was as follows:
 1. Introduction and opening remarks from Co-Chairs

 2. UK / EU updates on implementation of the Withdrawal Agreement
 - a. Citizens' Rights
 - b. Protocol on Ireland/Northern Ireland

 3. Tasks and responsibilities of the Specialised Committees
 - a. Citizens' Rights
 - b. Other Separation Provisions
 - c. Protocol on Ireland/Northern Ireland
 - d. Protocol on the Sovereign Base Areas in Cyprus
 - e. Protocol on Gibraltar
 - f. Financial Provisions

 4. AOB

13. One of the main outcomes from the meeting was the establishment of the six specialised committees required under the Agreement, including the Ireland/Northern Ireland Specialised Committee (INISC), which will make recommendations to the Joint Committee on the implementation and application of the protocol.

14. In the event that the Irish Government take part in the meeting on the 30th April, in line with the commitments in "*New Decade, New Approach*", representatives from the Northern Ireland Executive will be invited to be part of the UK delegation.

15. Officials will provide further updates on the work of the Joint Committee and INISC as part of the routine engagement with the TEO Committee.

Democratic Consent

In relation to the consultation process attached to the 'democratic consent' mechanism, what is that likely to involve and what support will there be from the UK Government?

16. This is a matter for the UK Government and the Assembly may wish to write to the NIO in this regard.

Negotiations

What are the Executive's priorities for the future UK-EU relationship?

17. There has been some recent engagement with the Chancellor of the Duchy of Lancaster, Rt Hon Michael Gove MP' and the Paymaster General, Rt Hon Penny Mordaunt MP. The First Minister and deputy First Minister have made it clear that engagement needs to be substantive, two-way and meaningful and Ministers will continue to press for greater engagement. The First Minister and deputy First Minister met with Welsh Government's Minister for European Transition, Jeremy Miles and Scottish Government Cabinet Secretary for the Constitution, Europe and External Affairs Mike Russell and Minister for Europe and International Development, Jenny Gilruth on 10 March to press jointly for a meaningful, comprehensive and transparent process for the devolved administrations to influence the UK's negotiating position.
18. The first round of UK/EU negotiations were focused on scoping and there was no discussion on policy. As a result of the impact of Covid-19 the second round of negotiations was held remotely and have focussed on exploring the UK and EU legal texts which have been shared. The UK legal text has not been shared with the devolved administrations or with the EU member States.
19. The UK published the agenda for the second round of Future Relationship talks which started on the 20th April and are expected to last all week. Two

further rounds of negotiations are planned for the weeks beginning 11 May and 1 June. A high level stocktake is proposed for June which will take stock of the progress made.

20. TEO Officials will keep the TEO Committee apprised of developments throughout the negotiation process as part of the routine engagement on EU Exit Matters.

EU Funding Programmes

What are the Executive's priorities in relation to participation in future EU programmes e.g. ERASMUS, research & innovation programmes i.e. what programmes would it like to retain if negotiations in this area are successful?

21. In relation to EU Funding, the Executive's position is that we require full replacement of the spending power that we would have been able to access from the EU funding programmes. We wish to ensure that we do not lose the significant funding allocations we benefited from as part of the EU.
22. It is also our view that the delivery arrangements should be as simple as possible and respect the devolution settlement.
23. The UK Government has ruled out participation in the majority of EU programmes, and we, via DOF, are seeking clarity around the potential for our participation as a region in some of these Programmes.
24. In particular we would hope to continue to participate in the INTERREG transnational and interregional programmes, as well as the Connecting Europe Facility and the NICS has been engaging directly with BEIS and HMT on Future Participation.
25. The UK Government is seeking to participate in Horizon and the ERASMUS+ Programme. In the event that the UK Government is successful in securing participation on those terms we will participate alongside them but if they are

not successful then we will consider seeking participation in ERASMUS+ as a region, subject to a value for money assessment.

Shared Prosperity Fund

26. The UK Government is in the process of developing a Shared Prosperity Fund (SPF), which is to replace structural funds which will no longer be available.

27. Officials in the Department of Finance are urgently seeking details of the proposals for the Shared Prosperity Fund (SPF) This represents core spending power for us and must be fully provided in line with our devolved responsibilities.

Repatriated powers – Common Frameworks

In relation to the development of Common Frameworks, will the Committee be informed in a timely manner of the Frameworks the Executive will opt in to or out of? Does the Executive have a position in relation to proposed Frameworks under development?

What is the latest information on the number of Common Frameworks and the timelines for provision to committees?

What level of liaison has there been with counterpart departments on the development of Common Frameworks?

How will Common Frameworks work in light of the Protocol?

28. Common Frameworks will apply where it is decided that some aspect of the powers repatriated from the EU on exit will be dealt with on a common basis across the four jurisdictions in the UK. Given the potential impact of Common Frameworks on the devolution settlements, officials are currently preparing advice for Ministers on when it is appropriate that they be established

29. Officials from TEO have been involved in the common frameworks process since autumn 2017 and are represented on the UKG/Devolved Administration

Common Frameworks Project Board which has been overseeing the development of frameworks arrangements.

30. In the absence of Ministers, official's participation was limited to provision of advice and guidance on a factual and analytical basis only. Any input was without prejudice to the views of a returning Executive.
31. A cross NICS frameworks forum was established to bring together all Departments with an interest in the development of frameworks to ensure that information from the UK wide frameworks project board reached the relevant officials and allow a 2-way exchange of information.
32. An exercise has been carried out to identify those policy areas which are impacted by the Ireland/Northern Ireland Protocol. Officials continue to explore the implications of how the frameworks will work in light of the Protocol.
33. We anticipate that there will be further engagement around frameworks over the coming weeks and months through UKG/Devolved Administration Common Frameworks Project Board.
34. Common Frameworks is an issues which has yet to be considered by the Executive (considering EU Exit Matters). However it is anticipated that around 20 frameworks on various policy issues will be brought to the relevant Departmental Committees in due course

Non-Negotiated Outcome (Operational Readiness)

What actions are being taken to ensure operational readiness for Brexit including a no-deal scenario?

35. The Executive is currently considering its options in relation to readiness for a possible Non-negotiated outcome.

Office of Northern Ireland Executive Brussels

What role is envisaged for the Executive Office in Brussels and what level of resources will be attached to it?

36. The Office of the NI Executive in Brussels is an important resource. It works in partnership with all Executive departments and plays an important role in supporting Northern Ireland's engagement, and ensuring our interests are effectively represented, with the EU, its institutions and with countries, regions and organisations across Europe.

37. Given our unique position with the Protocol and the fact that the EU will remain a key partner in many areas a presence in Brussels will be important. It is envisaged that the work of the Brussels office will develop and reflect the UK's exit from the EU. No decisions have been taken yet on the level of resource to be assigned to the Brussels Office.

North/South and East/West Engagement

What level of engagement is there between the Executive and the North-South/East-West institutions in relation to EU exit issues?

38. There has been engagement between Executive Ministers and their colleagues in other Administrations, particularly on an East West basis. The First Minister and deputy First Minister met with Welsh Government's Minister for European Transition. Jeremy Miles and Scottish Government Cabinet Secretary for the Constitution, Europe and External Affairs Mike Russell and Minister for Europe and International Development, Jenny Gilruth on 10 March on engaging with the UK Government on EU negotiations.

39. Ministers will continue this engagement over the coming weeks and months throughout the negotiations process.

40. Executive Ministers have not attended British Irish Council (BIC) Summit meetings since November 2016, although officials have attended in an observer capacity. The agendas for Summit meetings have provided an

opportunity for member administrations to share their perspectives on EU exit issues and other political developments, but the BIC does not take a collective position. There is also no formal work stream of the BIC dedicated specifically to EU exit issues.

41. The next scheduled Summit meeting of the British Irish Council will be hosted by the Scottish Government in June 2020.
42. Engagement on a North/South basis has been more limited. The recent election in Ireland has meant that the North South Ministerial Council is not yet meeting on a regular basis
43. The first NSMC meeting since restoration, an NSMC Institutional meeting to specifically address a number of urgent appointments of Board Members to two North South Implementation Bodies took place on Wednesday 11 March 2020. 'Brexit' was not on the agenda for this meeting, but is expected to feature in future discussions at the NSMC.
44. It is recognised that the UK's withdrawal from the EU and the practical application of the Withdrawal Agreement will have implications for North/South cooperation. However, as has already been identified within the agreed Protocol, as part of the Withdrawal Agreement, it is envisaged that the NSMC and the North/South Implementation Bodies will play their role. The practicalities and the outworkings of the Protocol, will still need to be considered.
45. Senior representatives of the NI Executive and the Irish Government and their Chief Medical Officers met on Saturday 14 March in Armagh to review the situation regarding the COVID-19 virus and how best to tackle the outbreak. The meeting took place at the Secretariat offices of the NSMC in Armagh, however, it was not a formal NSMC meeting as defined under Strand 2 of the Belfast/Good Friday Agreement. It was a bilateral meeting to specifically discuss the impact of and response to Covid-19.

46. At an official level there is continued ongoing engagement at all levels on an East/West basis, both with central Government and the other Devolved Administrations.
47. On a North/South basis, there is regular engagement between senior officials while still respecting Ireland's position as one of the EU 27.

Joint Ministerial Committee (JMC)

How does the Department plan to engage with the Committee for the Executive Office in relation to meetings of the JMC (EN) e.g. will the Committee get advance sight of agendas, notice of issues Ministers plan to raise?

48. The Joint Ministerial Committee (European Negotiations) (JMC(EN)) represents the principal forum for multilateral ministerial engagement between UKG and the DA ministers on matters related to EU Exit.
49. The last JMC(EN) meeting took place on the 28th January in Cardiff and was attended by the First Minister and deputy First Minister. JMC(EN) meetings have traditionally been held on a monthly basis, however UK Government have yet to confirm the date of the next meeting of JMC(EN).
50. UK and the devolved administrations have traditionally issued a joint communique shortly after the meeting outlining the topics that were discussed.
51. TEO Officials will provide an update on JMC(EN) engagement when they brief the Committee on EU Exit matters.

International Relations (in light of Brexit)

Will the Executive's International Relations Strategy be revised in light of Brexit?

52. The International Relations strategy was refreshed in 2018/19 to reflect Brexit and changes to our international operating environment.

53. The impact of Brexit and actions the Executive might take will need to be considered by Ministers. Pending this, the Executive through its departments, agencies and overseas offices continues to strengthen its relationships with target countries and regions and enhance its support for businesses through securing market access and Invest NI assistance and advice.

International Agreements

What engagement will there be with the Committee in relation to the rollover of international agreements? Has the Executive raised any issues in respect of rolled over agreements to date?

54. The role of the Devolved Administrations including the Executive, in relation to trade policy is still to be clarified, including the rollover of international agreements. The Department for the Economy, as the lead department, continues to engage with the UK Government at Ministerial and official level in relation to international trade policy to ensure NI interests are reflected.


TEO Committee Briefing / March 2020

**PAGE LEFT BLANK TO ENSURE
APPENDIX STARTS ON A ODD NUMBERED PAGE**

NI Executive Priorities for the Next Phase of Negotiations

The Executive has agreed as its Principles for Negotiation that it will work to:

- A. Represent our position with strength.
- B. Maintain our competitiveness and maximise opportunities for cooperation with all trading partners.
- C. Protect and maximise the benefit of all our business (sales, purchases and investment) with GB.
- D. Maximise the benefit of our trade and integrated supply chains across both parts of the island and hence with the EU.
- E. Minimise additional costs of doing business.
- F. Underpin the business we do with the rest of the world.
- G. Protect those across our society, especially the most vulnerable.