

## **COMMITTEE FOR THE EXECUTIVE OFFICE OCTOBER UPDATE ON EU EXIT MATTERS**

This paper provides a general update to the TEO Committee on EU Exit matters as at 16 October. The Committee will be kept updated through the regular oral briefing process as progress is made on the matters set out below.

### **JOINT COMMITTEE/SPECIALISED COMMITTEE**

1. 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.
2. The third meeting of the Joint Committee took place on 28 September 2020. The First Minister and deputy First Minister were represented by the Junior Ministers who attended the meeting by teleconference. The Committee undertook a stocktake of Specialised Committee activity since the second meeting in June and was updated on implementation of the Withdrawal Agreement more generally, including the Northern Ireland Protocol. The Committee agreed that the Specialised Committee dealing with the Ireland / Northern Ireland Protocol would meet in early October followed by a further full Joint Committee meeting to take stock of further progress by mid-October.
3. The third meeting of the Specialised Committee was convened on **Friday 9 October 2020** by video conference. The INISC is an official level meeting co-chaired by the UK and the EU. The Northern Ireland Executive was represented by Executive Office officials: Andrew McCormick, Director General for International Relations, and Lynsey Moore, Director of EU Division.

4. The agenda for the meeting included a stocktake on the implementation work on the Ireland/Northern Ireland Protocol; preparatory work on the Joint Committee's decisions foreseen by the Protocol; preparatory work on the Joint Committee's decision on the correction of errors and omissions; and, forward planning.
5. The **Joint Consultative Working Group** rules of procedure were briefly discussed at the meeting with the UK welcoming the publication of the draft rules of procedure by the European Commission and looking forward to holding the first meeting of the group before the end of the year.
6. The next meeting of the **Joint Committee** will take place on **Monday 19 October 2020** and the First Minister and deputy First Minister have been invited to attend by teleconference. The provisional agenda for the meeting can be found at:  
[https://ec.europa.eu/info/publications/provisional-agenda-fourth-meeting-joint-committee\\_en](https://ec.europa.eu/info/publications/provisional-agenda-fourth-meeting-joint-committee_en) .

## **UK-EU FUTURE RELATIONSHIP NEGOTIATIONS**

7. The ninth and final planned scheduled formal negotiating round on the future relationship between the UK and EU took place in Brussels from the 29 September to 2 October.
8. Following the conclusion of these negotiations, in light of joint instructions from the PM and the EU Commission President Ursula Von der Leyen, discussions between the negotiating teams continued up to the European Council meeting on 15 & 16 October.
9. We understand that following the Council meeting the negotiating teams will make a decision as to whether discussions should continue and if any agreement is to be ratified and in place by the end of the Transition Period, the legal text must be finalised by 31 October.

## **IRELAND/NORTHERN IRELAND PROTOCOL**

10. The top cross-cutting priority issue for the Executive remains clarity on the implementation of the Protocol and the impact on our businesses and citizens. Our priority remains to secure unfettered access for NI goods to the GB Market as well as the minimum possible friction on East to West movement of goods.
  
11. The publication of the NI business guidance on moving goods under the Protocol in August was an important step forward but, as recognised in the guidance, there are outstanding issues on which discussion is ongoing.

## **NI BUSINESS ENGAGEMENT FORUM**

12. The UK Government committed in the Command paper to engage with NI Businesses to discuss their proposals and provide feedback on how to maximise the free flow of trade. Executive ministers and/or officials have continued to attend the NIO Business Engagement Forum meetings with representatives from the business community on a range of issues. NI Ministers also continue to engage regularly with stakeholders.

## **OPERATIONAL READINESS**

13. Operational readiness planning to include an option of a non-negotiated outcome continues.
  
14. The Operational Readiness Inter-Departmental Working Group (IDWG) meets regularly to consider cross-cutting issues and challenges. Bilateral meetings between TEO and individual departments will be arranged over the next few weeks to discuss the issues that have been identified, in order to fully understand the planned mitigations and residual risks. The Executive will consider possible mitigations for these issues, including where interventions would be required from the

UK Government, and assurances around continuity agreements or bilateral agreements.

15. Given the short timescale until the end of the Transition Period it is important that we prepare on a collaborative basis with UKG. FM and dFM will continue to attend JMC(EN) and other Ministers are involved in quadrilateral meetings with the Paymaster General and the other Devolved Administrations which will consider Operational Readiness issues. Ministers also attend meetings of the UK Government's Exit Operations (XO) Committee when the Devolved Administrations are invited.

## **LEGISLATION**

16. The latest monitoring returns from 8 October indicate the potential need for 1 Assembly Bill (Health and Education had previously confirmed that two other proposals for Assembly Bills will no longer be required within the transition period) and 9 Westminster Bills (including the Internal Market Bill), 72 Statutory Rules to be brought before the Assembly (14 of which have already been laid), with a further 93 Statutory Instruments that cut across devolved matters to be laid at Westminster (33 of which have been laid). Current timetabling indicates that there will be a significant surge in secondary legislative activity in the Assembly and at Westminster throughout October and into November.

17. However, these numbers remain fluid and are subject to change as provisions are further consolidated to minimise the number of statutory instruments to be brought forward within a limited period of time. Significantly, at this time, the programme cannot reflect the full range of legislation which may be required to implement the Protocol or those legislative requirements which are likely to arise following the conclusion of trade negotiations.

## **REPATRIATED POWERS - COMMON FRAMEWORKS**

18. The impact of resources having been redeployed to cover two extended periods of no deal planning ahead of exiting the EU and more recently, further resources being redirected to no deal with the Covid-19 response, means that the delivery of the full suite of frameworks required by the end of the transition period will not be possible
  
19. As a result the Frameworks Project Board has identified a smaller number of frameworks that should be fully implementable by December 2020 – Hazardous Substances Planning, Nutrition Labelling and Compositional Standards, Food & Feed Safety and Hygiene and the Emissions Trading Scheme. The remainder of the frameworks are expected to have received provisional confirmation by Ministers here and by JMC (EN) before the end of the Transition Period. Further development and scrutiny of these provisional frameworks will continue into 2021.
  
20. At its meeting on 3 September, JMC (EN) Ministers gave provisional confirmation to the Frameworks for Hazardous Substances Planning and Nutrition Labelling and Compositional Standards. These Frameworks can now begin the Assembly scrutiny phase with the relevant Assembly committees.
  
21. Review and assessment panels are scheduled for the remaining frameworks throughout October and early November, after which they will progress to Ministerial approval and Provisional Confirmation by JMC (EN).

## **INTERNAL MARKET**

22. The Internal Market Bill was laid in the House of Commons on 9 September 2020. The stated purpose of the Bill is to seek to provide a coherent approach to the UK Internal Market through a range of measures including:
- Principles of mutual recognition and non-discrimination of goods;
  - Giving effect to unfettered access of qualifying goods from Northern Ireland to Great Britain;
  - Recognition of professional qualifications to allow professionals access the same profession across the UK without needing to reapply;
  - Giving new powers to the Competition and Marketing Authority to advise and report on the Internal Market;
  - Measures to clarify specific elements of the Northern Ireland Protocol in domestic law on tariffs, export procedures and state aid;
  - Apply a uniform approach across the UK to the application of State Aid law under Article 10 of the protocol;
  - The power to provide financial assistance for priority areas across the UK; and
  - The reservation of subsidy control.

23. Correspondence from the UK Government to Minister Dodds sets out the need for the Bill, details of its main provisions and a devolution analysis and asks for confirmation that the Executive agrees with the UK Government's devolution analysis of the Bill, and would be content, in principle, to begin the legislative consent process in the Northern Ireland Assembly.

24. As the Bill is cross cutting the Executive will need to consider the response to the Bill and the impact on its devolved responsibilities.

## **RIGHTS AND DEDICATED MECHANISM**

25. HMT asked the Equality Commission (ECNI) and The NI Human Rights Commission to undertake the scrutiny and monitoring role that will form

the 'Dedicated mechanism' to ensure there is no diminution in rights, safeguards and equality of opportunity (as set out in the GFA) for people here following the UK's exit from the EU. (This is provided for in the Protocol and by the EU (Withdrawal Agreement) Act 2020.)

26. Discussions between, ECNI, NIO, DoF and HMT have taken place regarding the appropriate funding to allow ECNI to discharge this role. TEO as sponsor for ECNI is involved in these discussions in respect of the mechanics for the payment and appropriate governance structures.
27. In light of the resources committed by Government to cover staffing and other associated costs of the dedicated mechanism, the Commission has formally agreed that it is willing to act as part of the dedicated mechanism and that it should proceed to establish the dedicated mechanism.
28. ECNI has begun the process for recruiting staff. A number of key positions have now been filled and the aim is to have a core team in place at the end of the transition period.
29. Funding for the Dedicated Mechanism has been secured until March 2023. TEO officials have begun discussions with NIO to formalise funding beyond that period.
30. On 14<sup>th</sup> October, the Northern Ireland Human Rights Commission, Equality Commission for Northern Ireland and the Irish Equality Human Rights Commission issued a joint statement expressing their concerns about the Internal Markets Bill. They also reported that they have written to the Secretary of State to seek an assurance that the Internal Markets Bill will have no adverse effect on the 'No Diminution' commitment.