

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

This paper provides an update to the TEO Committee on EU Exit matters as they stand at 6 November 2020. The Committee will be kept updated through the regular oral briefing process, as progress is made on the matters set out below.

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

1. The European Council on 15 October represented a significant milestone in the progress of the Future Relationship negotiations, as the point at which the negotiating teams would take a decision whether discussions should continue.
2. On 21 October the negotiating teams reiterated their shared commitment to reaching an agreement and agreed a set of organising principles for further negotiations, which would take place on an intensified and face to face basis.
3. We understand that the key areas of divergence remain across Fisheries, Level Playing Field including State Aid/Subsidies and Governance and an agreement must be reached by mid-November if it is to complete the necessary EU internal processes and be in place before the end of the Transition Period.
4. The Executive Position remains that every effort should be made to reach a Free Trade Agreement with the EU, and to welcome the commitment of both sides to continue discussions.

### **JOINT MINISTERIAL COMMITTEE (EUROPEAN NEGOTIATIONS)**

5. A meeting of the Joint Ministerial Committee (European Negotiations) (JMC(EN)) took place via videoconference on Thursday 29 October. The meeting was attended by the First Minister, deputy First Minister and Junior Ministers Lyons and Kearney. The agenda for the meeting covered the Future Relationship Negotiations, Operational Readiness including the Protocol, and the UK Internal Market Bill.

### **IRELAND/NORTHERN IRELAND PROTOCOL**

6. 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.
7. 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.
8. Further guidance was published on 1 October, on the movement of medicines from GB to NI after the end of the transition period, and on 26 October on how businesses should account for VAT on goods moving east to west under the Protocol.

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

9. 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.
10. The fourth meeting of the **Joint Committee** took place **on 19 October 2020**. The First Minister and deputy First Minister attended the meeting by teleconference. The meeting was jointly chaired by the Chancellor for the Duchy of Lancaster (CDL), the Rt. Hon. Michael Gove MP, and European Commission Vice President, Maroš Šefčovič.
11. The main issues discussed were Citizen's rights; progress on implementation of the Ireland/Northern Ireland Protocol; and progress on preparation of Joint Committee decisions. Ministers took the opportunity to provide an update on the progress on the work undertaken on SPS checks and points of entry. The UK and EU agreed to take an open book approach to progress in this area, including a weekly update on progress.

12. Ministers also stressed the importance of flexibility in approach from both sides to the issues still to be agreed by the Joint Committee. There was recognition from both the UK and EU chairs that time was pressing and work needed to be accelerated. The co-chairs gave a clear political steer to their officials to progress the outstanding issues at pace and report back to the next meeting of the Committee.
13. A subsequent meeting of the **Ireland/Northern Ireland Specialised Committee** took place by video conference on **5 November 2020**. The Northern Ireland Executive was represented by Executive Office officials: Andrew McCormick, Director General for International Relations, and Lynsey Moore, Director of EU Division.
14. The agenda for the meeting included a stocktake on the implementation work on the Ireland/Northern Ireland Protocol and the preparatory work on the Joint Committee's decisions foreseen by the Protocol. The EU and UK recorded progress in agreeing approaches on the issues of VAT, Transit, Medicines and the Single Electricity Market but noted there was still further discussion needed on the four areas for decision by the Joint Committee. Further technical sessions will take place in the coming week.
15. Andrew McCormick provided a factual update on progress by the Executive to put in place the necessary provisions for SPS checks at points of entry into NI. He also stressed the need for further progress on the discussions between the UK and EU on the facilitations of SPS checks. .
16. The date of the next meeting of the **Joint Committee** has still to be confirmed but is expected in **mid-November**. .

## **RIGHTS AND DEDICTED MECHANISM**

17. As the Committee will be aware, the UK Government asked the Equality Commission (ECNI) and The NI Human Rights Commission (NIHRC) 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.)
18. Funding has now been secured from HM Treasury to cover ECNI's costs in relation to the dedicated mechanism until March 2023. TEO officials are in discussions with DoF and NIO officials to formalise funding beyond that point.
19. ECNI has begun the process for recruiting staff and a number of key positions have now been filled. ECNI aims to have a core team in place at the end of the transition period.
20. 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 for Northern Ireland to seek an assurance that the Internal Markets Bill will have no adverse effect on the 'No Diminution' commitment. We understand the Secretary of State is yet to reply.

## **LEGISLATION**

21. The latest monitoring returns from 6 November 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 (16 of which have already been laid), with a further 93 Statutory Instruments that cut across devolved matters to be laid at Westminster (54 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 November and into December.

22. 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.

### **OPERATIONAL READINESS**

23. Operational readiness planning to include an option of a non-negotiated outcome continues.

24. The Operational Readiness Inter-Departmental Working Group (IDWG) meets regularly to consider cross-cutting issues and challenges. TEO have held bilateral meetings with departments to discuss each department's issues in depth and to understand the planned mitigations and residual risks. Priority high impact issues that have been identified include Food Supply, the Supply of Priority Goods, Business Preparedness and Data Adequacy. The Executive will consider possible mitigations for these, and other, issues, including where interventions would be required from the UK Government, and assurances around continuity agreements or bi-lateral agreements. An Action Plan for day one readiness is currently under development for consideration by the Executive.

25. 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 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.

### **NI BUSINESS ENGAGEMENT FORUM**

26. The UK Government committed in the Command paper to engage with businesses here 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. Executive Ministers also continue to engage regularly with stakeholders.

### **REPATRIATED POWERS - COMMON FRAMEWORKS**

27. 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

28. 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.

29. 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. The Health Committee has begun scrutiny of the Nutrition Labelling and Compositional Standards Framework.

30. Review and assessment panels for 26 Frameworks have been completed as of 12 November. The remaining 7 Frameworks are due to complete review and assessment by 20 November, after which they will progress to Ministerial approval and Provisional Confirmation by JMC (EN) before the 31<sup>st</sup> December.

31. Once Frameworks have received Provisional Confirmation from JMC (EN), they will be submitted to the relevant Assembly Committee for scrutiny, before final implementation in 2021.

## **INTERNAL MARKET**

32. The Internal Market Bill is anticipated to make complete its passage through the House of Lords by early December 2020 and should have Royal Assent ahead of the 31 December 2020 and the end of the Transition Period.

33. Over 200 amendments were tabled for the Bill Committee stages which are scheduled to end on 9 November. To date only 17 of the 170 amendments considered have been agreed. All were government sponsored and technical in nature. Points of note during the Bill's passage to date are as follows:-

- Amendments to Market Access (Parts 1 and 2) of the Bill which sought to introduce proportionality and subsidiarity in line with Common Frameworks Principles agreed at JMC(EN) in October 2017 failed.
- Amendments tabled to clarify the interaction between Common Frameworks and the Bill's provisions have yet to be debated (Part 7). These are relevant as the Scottish and Welsh governments hold that the Bill undermines Common Frameworks and fails to recognise Common Frameworks as an alternative to the Market Access proposals.
- The Bill's Part 5 – the Northern Ireland Protocol has been the subject of extensive debate. A limited number of amendments to the Bill have been tabled as it is expected that Members will vote to remove Part 5 from the Bill in its entirety at the final Committee session on 9 November. Should this happen the clauses providing local goods with unfettered access would also be removed and will require re-introduction at a later stage.

34. 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.

35. As the Bill is cross cutting the Executive is considering the response to the Bill and the impact on its devolved responsibilities.