

Stormont Castle
BELFAST
BT4 3TT

Marie Austin
Committee for TEO
Room 412
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3SR

24 June 2020

Dear Marie

**WITHDRAWAL AGREEMENT JOINT COMMITTEE – BRIEFING FROM
JUNIOR MINISTERS ON 13 MAY 2020**

Thank you for your letter of 14 May 2020 following briefing from Junior Ministers, Gordon Lyons, MLA, and Declan Kearney, MLA, on Brexit matters including the Withdrawal Agreement Joint Committee at the 13 May Committee Meeting.

Please see the following response to each response set out below.

- 1. The Withdrawal Agreement Joint Committee meeting took place on 30 March and the Specialised Committee took place on 30 April – were Executive positions agreed in advance of these meetings and how was agreement secured?*
 - The first meeting of the Joint Committee on 30 March was very much about process with one of the key outcomes being the setting up of the six specialised committees under the agreement, one of which has responsibility for the Ireland/Northern Ireland Protocol. There was no discussion that required a specific agreed Executive position beforehand.
 - Similarly the discussions at the first meeting of the Ireland/Northern Ireland Specialised Committee on 30 April were mainly to start preparatory work between the UK and the EU on a number of issues including the formal establishment of the

Joint Consultative Working Group.. The discussion was informed by the strategic approach and key principles agreed by the NI Executive.

2. *The Joint Committee is responsible for making sure there is no misunderstanding between the UK and EU that would prevent them from meeting their treaty obligations. Are there any misunderstandings/potential for misunderstandings apparent at this stage?*
 - The first meeting only considered setting up of specialised Committees etc and there were no misunderstandings apparent at this stage. However, there are clearly a number of issues that require further discussion and agreement in relation to the implementation of the Protocol. Many of these issues have been subsequently outlined in the UK Government Command Paper.

3. *Michael Gove has committed to making a Written Ministerial Statement both before and after each Joint Committee meeting – and at times an oral statement. Given the seriousness of these discussions and negotiations, and the need for transparency, is this something the Executive would also commit to doing?*
 - The Withdrawal Agreement is an International Agreement between the UK and the EU. There are no plans for a Written Ministerial Statement following any meeting which the NI Executive attends.

4. *What does being ‘part of the UK delegation’ in any relevant meetings of the UK-EU Specialised or Joint Committees mean in practice? For example, are you just there as observers or can you make contributions during the meetings?*
 - In Annex A, paragraph 8 of New Decade New Approach, the UK Government has committed to the inclusion of representatives from the Northern Ireland Executive of the UK delegation in any meetings of the UK-EU Specialised or Joint Committees discussing Northern Ireland specific matters which are also being attended by the Irish Government as part of the European Union’s delegation.
 - The UK Co-Chair of the respective Committee is responsible for articulating the UK position but may decide to delegate to others, usually dependent on attendees areas of expertise. At the first meeting of the Joint Committee on 30 March Junior Minister Lyons and Junior Minister Kearney were both provided with the opportunity to update the Committee on Northern Ireland

Executive priorities. At the first meeting of the Specialised Committee on 30 April Dr Andrew McCormick was asked to outline the current state of play on the Single Electricity Market.

5. *There is no formal role for any of the devolved regions in relation to trade negotiations. If trade is being discussed at a Withdrawal Agreement Joint Committee meeting, do you get to remain in the meeting for those discussions or can you only remain for specific agenda items? Was trade considered at the Joint Committee meeting on 30 March?*
 - The Joint Committee was established by Article 164 of the Withdrawal Agreement, which states that is responsible for the implementation and application of the Withdrawal Agreement. Trade negotiations between the UK and EU are a separate process and do not form part of the discussions of the Joint Committee.

6. *The Specialised Committee can consider proposals from the Equality and Human Rights Commissions and/or any of the North/South bodies. Unless implementation of those proposals require legislation, because of the secrecy of the Joint Committee we may not know about what proposals have been considered or accepted. Is that the case?*
 - In accordance with Article 14 of the Protocol on Ireland/Northern Ireland there are two distinct processes whereby specific organisations and bodies can input into the Specialised Committee, and Article 14(b) and 14(c) set out the conditions in which this can occur.
 - Firstly Article 14(b) states that the Specialised Committee shall examine proposals concerning the implementation and application of the Protocol from the North-South Ministerial Council and North-South Implementation bodies set up under the 1998 Agreement. There is no reference to the outcome of this examination in the Protocol.
 - Secondly, Article 14(c) states that the Specialised Committee shall consider any matter of relevance to Article 2 of the Protocol, which relates to the rights of individuals, brought to its attention by the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland. Again there is no reference in the Protocol to the outcome of consideration by the Specialised Committee.

7. *In relation to the Joint Consultative Working Group, has the Specialised Committee made any decisions around the Group in terms of its*

operation, remit etc. Was this matter discussed at the recent Specialised Committee meeting? When will the first meeting of this Working Group be held?

- Article 15 of the Protocol on Ireland/Northern Ireland sets out the remit and operation of the Joint Consultative Working Group. The Specialised Committee meeting on 30 April agreed that the Joint Consultative Working Group should be convened in the near future, but a date has not yet been set.

8. *The Specialised Committee comprises officials, led by Brendan Threlfall for the UK Civil Service. From which Executive Department do officials from the NICS participate in the Specialised Committee?*

- Article 165(3) of the Withdrawal Agreement states:
- *The Union and the United Kingdom shall ensure that their respective representatives on the specialised committees have the appropriate expertise with respect to the issues under discussion.*
- Dr Andrew McCormick from the Executive Office attended the first meeting of the Specialised Committee on 30 April. However for future meetings it is possible that officials from other NICS Departments may attend in line with the commitments contained in Annex A paragraph 8 of New Decade New Approach and depending on the agenda items for discussion.

9. *Are you satisfied with the level of engagement the Executive has with the UK Government in relation to the implementation of the Protocol and feeding in to the UK Government negotiation position in the future relationship talks?*

- The responsibility for International Relations is the responsibility of the UK Government and Parliament. The UK Government recognises that engagement is needed on areas related to devolved matters or where they intersect with devolved competence. The Executive office is taking every opportunity to work with the UK Government on both the Protocol and Future Relation negotiations. The level and quality of engagement is kept under review and where issues arise these are communicated through relevant Ministerial and official meetings.

10. *The Committee was told at its meeting on 29 April that the Brexit-Sub Committee, and subsequently the Executive (meeting to consider EU Exit Matters), had met on five occasions with the last meeting being an Executive meeting on 4 March. Have there been any meetings since?*

- The Executive Committee to consider EU Exit matters met for the first time in that format on the 4th March. Further meetings had been scheduled to take place on the 19th March, 31st March and the 21st April, however these meetings did not take place due to the scheduling of multiple weekly Executive meetings to deal with the ongoing Covid 19 Crisis.
 - From the 11th May EU Exit matters are now being considered by the Executive as a standing weekly agenda item.
11. *The First Minister and deputy First Minister told us at the Committee meeting on 5 February that a schedule of engagement with stakeholders would be developed and this would be shared with the Committee - a copy of the schedule has not yet been received. Has the schedule been developed and has any engagement taken place?*
- Prior to its dissolution the Brexit Sub-Committee, at its meeting of the 11th February, agreed an approach to stakeholder engagement that would help inform decisions on EU Exit.
 - The sub-committee agreed that they should take a fluid approach to convening key stakeholders as it felt appropriate. During the current Covid situation engagement with Stakeholders has been paused however consideration is now being given to the way forward.
12. *What is your position on the likelihood of a successful conclusion to the UK-EU negotiations by the end of this year? Michael Gove puts it as 2:1. Both the Scottish and Welsh Governments have called for an extension to the transition period particularly in the light of COVID-19 – what is your position?*
- The negotiations are led by the UK Government and we would not be in a position to assess the likelihood of success.
 - The work to address the opportunities and obligations arising from EU Exit remains a priority for Ministers and their respective departments. The question of a possible extension to the transition period is a matter for the UK Government and there is no Executive agreed position on this matter.
13. *The First Minister and deputy First Minister have secured regular meetings to discuss Protocol issues with Michael Gove. The first meeting took place on 10 March – how many meetings have taken place since? Is this mechanism enough to allow the Executive to feed*

in its view to Westminster so that positions adopted reflect the needs of NI?

- The meeting between the First Minister and deputy First Minister and the Chancellor of the Duchy of Lancaster, the Rt. Hon. Michael Gove MP, on the 10th March represented the first of a series of bilateral meetings that UKG have committed to providing on issues relating to the Protocol.
 - The First Minister and deputy First Minister have continued to engage with their Ministerial colleagues in UKG on issues and concerns relating to the Protocol at all available opportunities, including regular weekly telephone discussions.
14. *When is the next JMC (EN) meeting due to take place (last one took place in Cardiff in January)? Mike Russell, Scottish Government Cabinet Secretary issued a call on 20 April for an urgent meeting – have you made similar representations to the UK Government? Are there any preparations being made for that meeting in terms of preparing briefs/considering positions?*

The Chancellor of the Duchy of Lancaster, the Rt. Hon. Michael Gove, M.P. responded to the Cabinet Secretary's request for an urgent meeting in a letter addressed to all the devolved administrations on the 30th April.

- In his letter the Chancellor of the Duchy of Lancaster proposed that he would host a meeting of the JMC (EN) during the week commencing the 18th May.
 - A meeting of JMC (EN) took place via video conference on the 21st May.
15. *Does the Executive have an agreed view on the presence of an EU Office in Belfast to help monitor the UK's implementation of the Withdrawal Agreement?*
- International Relations is an excepted matter under the terms of the Northern Ireland Act 1998. Accordingly, the decision as to whether an office of the EU delegation should be established in Belfast is within the competence of the UK Government. The UK Government has not sought the views of the Executive on this matter.
16. *In the interests of transparency and accountability, how do you plan on keeping this Committee and the wider Assembly apprised of the*

Executive's activity in relation to the Joint Committee, Specialised Committee and the Joint Consultative Working Group?

- The Committee and wider Assembly will be appraised of the Executive's activity in relation to the Joint Committee, Specialised Committee and the Joint Consultative Working Group as part of the normal Brexit briefing by officials and Ministers.
17. *What interactions are you having with your counterparts in Scotland and Wales in relation to common concerns for the devolved regions including the level of involvement in the development of the UK Government position in the future relationship negotiations? (Mike Russell, Scottish Cabinet Secretary for Constitution, Europe and External Affairs and Jeremy Miles, Welsh Brexit Minister and Counsel General.)*
- The First Minister and deputy First Minister took part in a Trilateral meeting with their Ministerial Colleagues from the Scottish Government, Cabinet Secretary for the Constitution, Europe and External Affairs, Mike Russell, and Welsh Government, Counsel General and Minister for European Transition, Jeremy Miles, on Tuesday 10 March.
 - The discussions focused on how best to facilitate a meaningful, comprehensive and transparent process to allow the Devolved Administrations' input to forthcoming Negotiating Rounds.
 - Following the meeting the three Governments issued a joint statement emphasising the importance for meaningful and constructive engagement between the devolved administrations and the UK Government on the negotiations with the EU.
18. Giving evidence to the Commons Committee on the Future Relationship with the EU on 27 April 2020, Michael Gove said that Government will be inviting organisations to provide analyses and modelling in relation to the future relationship with the EU. How will the Executive ensure that the specific impacts and modelling for Northern Ireland are included?
- The Executive will continue to engage through all relevant Ministerial and official fora to provide information on the specific impacts and modelling for Northern Ireland as appropriate.

19. Do you envisage any amendment to the roles of the North/South bodies in relation to Protocol issues?

- The five party power-sharing Executive will continue to work with the Irish Government on the agreed North South Ministerial Council (NSMC) Areas for Cooperation. This includes the North South Bodies.
- The UK's withdrawal from the EU and the practical application of the Withdrawal Agreement and Protocol will have implications for North South Co-operation as defined under Strand 2 of the Belfast/Good Friday Agreement. They are not specifically issues that can be addressed solely through the North South Ministerial Council.
- However, as has already been identified within the agreed Protocol, it is envisaged that NSMC and the North South Implementation Bodies will play a role where it is appropriate. The practicalities and outworking of this Protocol still need to be considered.
- It is important to note the present roles of the North South Implementation Bodies are clearly defined within the establishing legislation made in 1999 in each jurisdiction, and the international agreement of March 1999. Therefore any changes to these roles and functions would require consideration within the scope of the legislation, and amendment of the Treaty between the UK and Irish Governments. No material amendments have been made to date to these establishing legislations.
- The SEUPB will continue to have a role in relation to the round of EU funding up to 2020, and the Peace Plus and any other relevant programmes that may be included in the next EU MFF.
- NSMC meetings will present an opportunity for Ministers north and south to discuss any relevant issues, including Brexit issues, which may impact on their agreed Area for Co-operation.

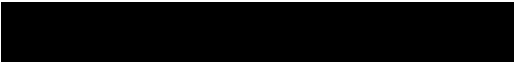
20. *In relation to the Protocol, what interaction has the Executive with the Government's Border Delivery Group led by Emma Churchill?*

- Prior to the return of the Executive, officials had engaged with the Borders Delivery Group on no-deal planning and operational readiness.

21. *How many civil servants have been redeployed from EU related issues to work on COVID-19?*

- The figures for the number of civil servants redeployed from EU related issues to work on Covid-19 is currently being collated. The Executive Office will provide these to the Committee once finalised.

Yours sincerely

A solid black rectangular box used to redact the signature of the Departmental Assembly Liaison Officer.

Departmental Assembly Liaison Officer



Northern Ireland
Assembly

Committee for the Executive Office

[REDACTED]
Stormont Castle
Ballymiscaw
Belfast
BT4 3TT

14 May 2020

Dear [REDACTED]

**WITHDRAWAL AGREEMENT JOINT COMMITTEE – BRIEFING FROM JUNIOR
MINISTERS ON 13 MAY 2020**

At its meeting on 13 May 2020, the Committee for the Executive Office received a briefing from Junior Ministers, Gordon Lyons, MLA, and Declan Kearney, MLA, on Brexit matters including the Withdrawal Agreement Joint Committee.

Following the briefing, the Committee agreed to forward a number of questions to The Executive Office for answer. The Committee appreciates that some of the questions were answered by Junior Members during the briefing session, but agreed that written responses should also be sought.

The questions can be found at **Annex A** to this letter.

Departmental officials are due to brief the Committee on 27 May on Brexit matters and it is hoped that responses to the questions can be included as part of the Department's briefing paper for the session. A response by **noon on Thursday 21 May 2020** would therefore be appreciated.

Yours sincerely

Marie Austin
Clerk to the Committee for the Executive Office



Annex A

1. The Withdrawal Agreement Joint Committee meeting took place on 30 March and the Specialised Committee took place on 30 April – were Executive positions agreed in advance of these meetings and how was agreement secured?
2. The Joint Committee is responsible for making sure there is no misunderstanding between the UK and EU that would prevent them from meeting their treaty obligations. Are there any misunderstandings/potential for misunderstandings apparent at this stage?
3. Michael Gove has committed to making a Written Ministerial Statement both before and after each Joint Committee meeting – and at times an oral statement. Given the seriousness of these discussions and negotiations, and the need for transparency, is this something the Executive would also commit to doing?
4. What does being ‘part of the UK delegation’ in any relevant meetings of the UK-EU Specialised or Joint Committees mean in practice? For example, are you just there as observers or can you make contributions during the meetings?
5. There is no formal role for any of the devolved regions in relation to trade negotiations. If trade is being discussed at a Withdrawal Agreement Joint Committee meeting, do you get to remain in the meeting for those discussions or can you only remain for specific agenda items? Was trade considered at the Joint Committee meeting on 30 March?
6. The Specialised Committee can consider proposals from the Equality and Human Rights Commissions and/or any of the North/South bodies. Unless implementation of those proposals require legislation, because of the secrecy of the Joint Committee we may not know about what proposals have been considered or accepted. Is that the case?
7. In relation to the Joint Consultative Working Group, has the Specialised Committee made any decisions around the Group in terms of its operation, remit etc. Was this matter discussed at the recent Specialised Committee meeting? When will the first meeting of this Working Group be held?
8. The Specialised Committee comprises officials, led by Brendan Threlfall for the UK Civil Service. From which Executive Department do officials from the NICS participate in the Specialised Committee?
9. Are you satisfied with the level of engagement the Executive has with the UK Government in relation to the implementation of the Protocol and feeding in to the UK Government negotiation position in the future relationship talks?



Northern Ireland
Assembly

10. The Committee was told at its meeting on 29 April that the Brexit-Sub Committee, and subsequently the Executive (meeting to consider EU Exit Matters), had met on five occasions with the last meeting being an Executive meeting on 4 March. Have there been any meetings since?
11. The First Minister and deputy First Minister told us at the Committee meeting on 5 February that a schedule of engagement with stakeholders would be developed and this would be shared with the Committee - a copy of the schedule has not yet been received. Has the schedule been developed and has any engagement taken place?
12. What is your position on the likelihood of a successful conclusion to the UK-EU negotiations by the end of this year? Michael Gove puts it as 2:1. Both the Scottish and Welsh Governments have called for an extension to the transition period particularly in the light of COVID-19 – what is your position?
13. The First Minister and deputy First Minister have secured regular meetings to discuss Protocol issues with Michael Gove. The first meeting took place on 10 March – how many meetings have taken place since? Is this mechanism enough to allow the Executive to feed in its view to Westminster so that positions adopted reflect the needs of NI?
14. When is the next JMC(EN) meeting due to take place (last one took place in Cardiff in January)? Mike Russell, Scottish Government Cabinet Secretary issued a call on 20 April for an urgent meeting – have you made similar representations to the UK Government? Are there any preparations being made for that meeting in terms of preparing briefs/considering positions?
15. Does the Executive have an agreed view on the presence of an EU Office in Belfast to help monitor the UK's implementation of the Withdrawal Agreement?
16. In the interests of transparency and accountability, how do you plan on keeping this Committee and the wider Assembly apprised of the Executive's activity in relation to the Joint Committee, Specialised Committee and the Joint Consultative Working Group?
17. What interactions are you having with your counterparts in Scotland and Wales in relation to common concerns for the devolved regions including the level of involvement in the development of the UK Government position in the future relationship negotiations? (Mike Russell, Scottish Cabinet Secretary for Constitution, Europe and External Affairs and Jeremy Miles, Welsh Brexit Minister and Counsel General.)
18. Giving evidence to the Common Committee on the Future Relationship with the EU on 27 April 2020, Michael Gove said that Government will be inviting organisations to provide analyses and modelling in relation to the future relationship with the EU. How will the Executive ensure that the specific impacts and modelling for Northern Ireland are included?



Northern Ireland
Assembly

19. Do you envisage any amendment to the roles of the North/South bodies in relation to Protocol issues?
20. In relation to the Protocol, what interaction has the Executive with the Government's Border Delivery Group led by Emma Churchill?
21. How many civil servants have been redeployed from EU related issues to work on COVID-19?