

## Agenda – External Affairs and Additional Legislation Committee

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Meeting Venue:	For further information contact:
Video conference via Zoom	Alun Davidson
Meeting date: 5 November 2020	Committee Clerk
Meeting time: 14.00	0300 200 6565
	<a href="mailto:SeneddEAAL@senedd.wales">SeneddEAAL@senedd.wales</a>

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In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health.

This meeting will be broadcast live on [senedd.tv](http://senedd.tv).

### Registration period

(13.30–14.00)

### 1 Introductions, apologies, substitutions and declarations of interest

(14.00)

### 2 Scrutiny session with the Counsel General and Minister for European Transition

(14.00–15.30)

(Pages 1 – 99)

Jeremy Miles MS, Counsel General and Minister for European Transition

Sophie Brighthouse – Welsh Government

Ed Sherriff – Welsh Government

Emily Hole – Welsh Government

### 3 Papers to note

(15.30–15.35)



- 3.1 Paper to note 1: Correspondence from the Chair of the Legislation, Justice and Constitution Committee to the Llywydd regarding scrutiny of Covid-19 regulations – 22 October 2020**  
(Pages 100 – 102)
- 3.2 Paper to note 2: Correspondence from the Chair of the Climate Change, Environment and Rural Affairs Committee to the Minister for Housing and Local Government regarding the draft Framework Outline Agreement for Hazardous Substances Planning – 26 October 2020**  
(Pages 103 – 106)
- 3.3 Paper to note 3: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding EEA EFTA negotiations – 27 October 2020**  
(Pages 107 – 110)
- 3.4 Paper to note 4: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding Intergovernmental Relations – 27 October 2020**  
(Pages 111 – 114)
- 3.5 Paper to note 5: Correspondence from the Minister of State for Trade Policy to the Chair regarding Trade Advisory Groups – 27 October 2020**  
(Pages 115 – 116)
- 3.6 Paper to note 6: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding Trade Advisory Groups – 29 October 2020**  
(Pages 117 – 120)
- 3.7 Paper to note 7: Correspondence from the First Minister to the Chair regarding the British-Irish Council – 3 November 2020**  
(Pages 121 – 122)
- 3.8 Paper to note 8: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding the Trade Bill 2020: Legislative Consent – 3 November 2020**  
(Pages 123 – 125)

- 4 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**

(15.35)

- 5 Scrutiny session with the Counsel General and Minister for European Transition – consideration of evidence**

(15.35–15.50)

- 6 Consideration of international agreements**

(15.50–16.00)

(Pages 126 – 128)

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By virtue of paragraph(s) vi of Standing Order 17.42

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Elin Jones MS

Y Llywydd and Chair of the Business Committee

22 October 2020

Dear Elin

### Scrutiny of Covid-19 regulations

Thank you for your letter of 8 October 2020, which we considered at our meetings on 12 and 19 October 2020.

Your letter sought to ascertain whether it would be appropriate for “the Welsh Government to flag new Regulations where the underlying principle had already been scrutinised, to enable a decision to be taken by the Business Committee about the level of further scrutiny which might be required before the debate.” As a consequence, you asked for our views on whether there was a possibility of enabling certain Covid-related Regulations to be prioritised for debate in such circumstances.

We do not believe the option suggested by the Business Committee to be appropriate for several reasons. In our view, approval for any form of legislation should not be on an ‘in principle’ basis. We do not therefore see ourselves having a role in endorsing (or rejecting) any assessment by the Welsh Government that a particular set of regulations were in principle the same as a previous set. Moreover, the value of such an assessment would in our view be questionable, given that while a new set of regulations may follow a similar policy objective, they could still be subject to reporting points under Standing Orders 21.2 or 21.3.

We believe our scrutiny of all Covid-19 regulations has been efficient and timely. We have reported on most regulations subject to the made affirmative procedure within 14 days of the instrument having been laid. In the majority of cases, this has enabled the Senedd to vote on whether the regulations should remain in force well before the 28 days permitted by the *Public Health (Control of Disease) Act 1984* and the 40 days permitted by the *Coronavirus Act 2020* (which the Senedd consented to in March this year). We



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would also wish to highlight that the majority of made affirmative regulations have been laid on a Friday; this coupled with our Monday morning meeting slot means that there has inevitably been a week's gap between laying and committee scrutiny, irrespective of the work needed to prepare reports for committee consideration. We also draw attention to the comments of the Minister for Health and Social Services, Vaughan Gething MS, in Plenary on 6 October 2020, which we welcome:

"I also welcome the fact that the committee has, from time to time, helped us with consistency in legislative provisions. That's part of the point of the scrutiny. We're making these regulations in a rapid manner because of the fast-changing picture with coronavirus, and I think there's value in having the committee undertaking its scrutiny function before the legislature is then able to exercise its function in determining whether these regulations can continue or not."

Nevertheless, we have considered a range of options to facilitate an even quicker scrutiny process. We discussed whether meeting more than once a week would facilitate the scrutiny of regulations laid by the Welsh Government at different points during the previous working week. Given the Welsh Government's practice of laying the majority of made affirmative regulations on a Friday, we also considered whether it would be feasible to move our Committee's regular meeting slot to a Wednesday morning, in order to consider regulations made on the previous Friday and to lay a report in time for a debate that afternoon. We also discussed whether we could give a formal commitment to report on made affirmative regulations within a 14-day deadline.

However, we concluded that such approaches are very likely to give rise to significant timetabling issues for the Welsh Government and Senedd Members. Furthermore, given the complexity of this legislation, any formalisation of our existing arrangements for the scrutiny of Covid-related legislation needs to be considered alongside the backdrop of an increasing volume of legislation to deal with the UK's exit from the EU, not least because such formalisation could potentially require additional resource or different working patterns. This latter point is particularly relevant given that our remit means that our work programme is currently heavily constrained by the necessary and important scrutiny of subordinate legislation related to EU exit and legislative consent memoranda for UK EU exit related Bills, including the constitutionally significant UK Internal Market Bill.

We recognise that matters related to the pandemic have been prioritised in government time during plenary sessions. We also considered whether the Welsh Government could consider using the draft affirmative procedure if at all possible when making Covid-related legislation under section 45C of the 1984 Act. Although we appreciate that this may not be feasible, we would encourage the Welsh Government to consider whether opportunities do exist for its use.



We will continue to do whatever we can to ensure the scrutiny of Covid-related regulations is conducted in a timely manner. However, we do not believe that our scrutiny function should be compromised in any circumstances.

I am copying this letter to the Chairs of all committees.

Yours sincerely

A handwritten signature in black ink, reading 'Mick Antoniw'.

**Mick Antoniw AM**

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg  
We welcome correspondence in Welsh or English



Julie James MS

Minister for Housing and Local Government

26 October 2020

Dear Julie,

Thank you for your letter, dated 15 October 2020, covering the draft Framework Outline Agreement (FOA) for Hazardous Substances Planning.

The Committee currently has limited capacity to scrutinise the common frameworks, which fall within its remit, that are expected to be published before the end of 2020. While we do not envisage undertaking a substantive piece of work on the provisional FOA for Hazardous Substances Planning, we would welcome a response from you on the following:

Development of the common framework

- 1. Can you explain why you believe a framework is necessary in this policy area?**
- 2. Can you expand on why the UK administrations chose to pursue a non-legislative framework?**
- 3. Can you outline how you have engaged Welsh stakeholders, including industry, Local Planning Authorities and Natural Resources Wales in the development of the framework?**
- 4. Can you outline the key issues raised by Welsh stakeholders and how these been reflected in the framework?**

Interaction with domestic and international law, and international agreements

- 5. Can you clarify whether and how the framework interacts with existing domestic legislation, other than that already listed in Section 1 of the draft FOA?**

6. The UK is signatory to two international agreements relevant to the hazardous substances regime: the Aarhus Convention and the Convention of the Transboundary Effects of Industrial



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Accidents. **Can you expand on how the framework will ensure compliance with these Conventions?**

**7. Can you clarify whether and how the outcome of the on-going EU-UK negotiations on the Future Relationship will impact on the framework?**

**8. Can you clarify whether and how the UK Government's Internal Market Bill will impact on the framework?**

#### Scrutiny process and timelines

**9. Can you confirm that the framework will comprise the provisional FOA, the Concordat and the updated MOU referred to in the draft FOA?**

**10. Can you clarify whether the Concordat and the updated MOU will be available for Senedd scrutiny?**

**11. Can you clarify the timeline for Senedd scrutiny of the provisional FOA and associated documents?**

#### Monitoring and review arrangements for the framework

According to the draft FOA, there are no formal monitoring measures associated with the framework. Instead, policy leads in each administration will hold six-monthly telephone conferences "to discuss any issues and share learning". In addition, a review meeting between the UK administrations will be held two years after the framework comes into effect.

**12. Can you explain why the UK administrations have chosen not to establish a more formal mechanism for monitoring the implementation of the framework?**

**13. Can you clarify whether a report of the review meeting between the UK administrations will be made publicly available?**

The draft FOA states that the involvement of stakeholders in the review and amendment process for the framework "would be considered at the time".

**14. Can you explain in what circumstances would it not be appropriate to involve stakeholders in the review process for the framework?**

**15. Can you confirm whether and how the Senedd will be able to contribute to the review process for the framework?**

#### Background to the common framework

**16. Can you outline the 'minimum requirements' of the Seveso III Directive in relation to hazardous substances planning, which are common across the UK?**



According to the draft FOA there is already considerable scope for divergence under the current hazardous substances planning regime. However, there are a number of restrictions on what the UK administrations can amend based on what has been set at EU level. The 'key restrictions' include changing the definition of what an establishment is and lowering standards on what constitutes a dangerous substance.

**17. Can you provide further details on the scope for divergence under the current hazardous substances planning regime?**

The post-EU Exit hazardous substances planning regime

**18. Can you clarify whether any of the current 'key restrictions' will be maintained at a UK-wide level post-EU Exit? How will this be reflected in the framework?**

Under the current hazardous substances planning regime, minimum requirements are common across the UK. This may not necessarily be the case under the post-EU Exit regime, where the UK administrations will have wider scope to use their powers to make changes. These changes could include relaxing requirements on the level of substances that can be held before triggering the consent process, and potentially (in a scenario in which the non-regression principle did not apply), completely removing controls for certain substances.

**19. What consideration has been given to maintaining common minimum requirements, including, for example, minimum standards on what constitutes a hazardous substance?**

**20. What are the potential risks and opportunities associated with not maintaining common minimum requirements and with widening the scope for divergence?**

**21. To what extent are you satisfied that the chosen approach in this policy area, i.e. a non-legislative framework, will not result in a lowering of standards and a reduction in the levels of protection for human health and the environment?**

**22. To what extent does the framework align with the Welsh Government's commitment to non-regression of environmental standards?**

Proposals for future changes to the hazardous substances planning regime

In responding to its Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major accident hazards (August 2015), the Welsh Government indicated it would "consider reform of the regime at a later date".

**23. Can you clarify whether the Welsh Government has undertaken any work on proposals for the reform of the hazardous substances planning regime since the above consultation?**

**24. Can you clarify whether the Welsh Government has any immediate or future plans to review the hazardous substances planning regime?**



**25. In what circumstances would the Welsh Government consider proposals to reduce controls below the current minimum requirements, for example, on the level of substances that can be held, or in relation to the consent process?**

**26. Can you clarify whether changes to the current minimum requirements would be subject to public consultation and Senedd approval?**

**27. To what extent are you satisfied that there is sufficient technical expertise at a Wales or UK level to replace that currently available at an EU level in this policy area?**

**28. In the absence of new or revised EU requirements in relation to hazardous substances planning applying to the UK, what arrangements will be put in place to review domestic requirements, taking account of developments elsewhere?**

I should be grateful if you could respond as soon as possible, and by 13 November 2020, at the latest.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee, and the Chair of External Affairs and Additional Legislation Committee.

Regards,



**Mike Hedges MS**  
**Chair of Climate Change, Environment and Rural Affairs Committee**

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



**Jeremy Miles AS/MS**

Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition

**Agenda Item 3.3**



David Rees MS

Chair of External Affairs and Additional Legislation Committee  
Senedd Cymru  
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Llywodraeth Cymru  
Welsh Government

27 October 2020

Dear David,

Thank you for your letter of 14 October. I can confirm that regular meetings are now taking place at official level in relation to the EEA EFTA negotiations.

On top of the regular Continuity Negotiations Co-ordination (CNC) programme meetings, officials have now met with the Chief Negotiator on several occasions and working level relationships have been established between the Devolved Governments and the EEA EFTA negotiations team.

At a Ministerial level, I will use my regular bilaterals with Greg Hands and the Ministerial Forum for Trade to ensure the channels of communications remain open during the negotiations.

Yours sincerely,

**Jeremy Miles AS/MS**

Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

**Jeremy Miles AS/MS**

**Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition**

**Agenda Item 3.4**



**David Rees MS**

**Chair, External Affairs and Additional Legislation Committee  
Senedd Cymru**

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27 October 2020

Dear David,

## **Intergovernmental Relations**

Thank you for your letter of 12 October on our interactions with the UK Government on the UK Internal Market Bill, preparedness for the end of the transition period, and on the joint Review of Intergovernmental Relations.

### **Review of Intergovernmental Relations**

We are making progress on new intergovernmental machinery as well as an improved mechanism for dispute avoidance and resolution. Officials continue to collaborate on the proposals, which are now well advanced.

Two Ministerial quadrilateral meetings have been held to discuss the proposals. At the most recent of those meetings, which I chaired, we noted the significant impact and adverse implications of the UK Government's Internal Market Bill on intergovernmental relations and I called for it to be amended to respect devolution. I continue to emphasise the need to conclude the review and begin the work of implementing new governance arrangements ahead of the end of the transition period. It is very important that we do not reach January without the new arrangements being in place.

On Lord Dunlop's Review of UK Government Union Capability, we engaged in the review last year, when the First Minister and I, as well as the Permanent Secretary, spoke with Lord Dunlop in Cardiff. Despite this, the UK Government has not yet shared with us the report they received some months ago. As the UK Government has not been forthcoming with the findings of the Dunlop Review, it is not therefore possible to confirm if it is influencing intergovernmental relations.

## **UK Internal Market Bill**

I have made very clear that, while we support maintaining the coherence of both the UK internal market and also a UK-wide subsidy regime, the UK Government's Internal Market

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Bill goes far beyond what is necessary to achieving these goals. Rather than strengthen the efforts through the Common Frameworks programme to co-design on a consensual basis measures which would protect both the internal market and devolved competence, the Bill would undermine them.

We are taking a pro-active approach to amending the Internal Market Bill, in order for the Bill to be one to which we could recommend the Senedd gives its consent, drastic changes are required, however we firmly believe that these changes are not only in the interests of Wales, but of the United Kingdom as a whole.

Last week, I published a [written statement](#) which included the Welsh Government's proposed amendments to the Bill which we hope will be taken up by the House of Lords.

We have also engaged with the UK Government, the detail of which is outlined at Annex A.

### **Preparedness for the end of the transition period**

In terms of overall engagement, both I and my officials have consistently made the case over recent months for full sharing of information on the UKG's preparedness projects. I have made this point to Michael Gove at meetings of JMC(EN) and to Penny Mordaunt at Ministerial Quadrilaterals. By way of example, I wrote to UK Government Ministers on 15 September about borders. I am still awaiting a response.

In October, Welsh Government Ministers have now also attended three meetings of the UK Government's 'XO' Cabinet Committee, which are our first invitations since January 2020.

Ministerial colleagues have also written on specific issues; for example on 14 October the Minister for Environment, Energy and Rural Affairs sought clarity on UK Government planning on food supply issues including underpinning analysis on UK Government planning assumptions. The Education Minister wrote to the Minister of State for Future Borders and Immigration on 25 September regarding changes to the post-study visa and the lack of advance notice provided to the Welsh Government despite the impact of these changes on a fully devolved area. The Education Minister also wrote to the Minister of State for Universities on 14 September and again on 18 September following Ministerial Quadrilateral meetings regarding changes to the executive summary of the business case for a domestic alternative to Erasmus+. In June, the Minister for Environment, Energy and Rural Affairs wrote to George Eustice MP, Secretary of State for Environment, Food and Rural Affairs, in respect of Sanitary and Phytosanitary checks; and in August to Victoria Prentis MP, Parliamentary Under Secretary of State at Defra, in respect of information about imports of critical commodities.

There is also a wide range of frequent contact between Welsh Government officials and counterparts in the UK Government and the other devolved administrations on work related to preparing for the end of the transition period.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.



Yours sincerely,



**Jeremy Miles AS/MS**

Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition

**UK Internal Market**  
**Latest discussions and correspondence with the UK Government**

7 July	Letter from CGMET to SoS for BEIS & CDL: Welsh Government concerns re. the future UK Internal Market	 2020-07-07 FINAL CGMET letter to CDL 2
16 July	Meeting between MET&NW and SoS for BEIS, ahead of the publication of the UK Government's White Paper on the UK Internal Market	
14 August	Letter from CGMET to SoS for BEIS: Welsh Government analysis of the UK Government's White Paper	 2020-08-14 IM White Paper - FINAL L
w/c 24 August	Official-level meetings following the publication of the White Paper, focussed on three areas: 1) Governance – Office of the Internal Market 2) Mutual Recognition 3) Inter-governmental relations	
2 September	Meeting between CGMET and SoS for BEIS, following the Welsh Government's response to the UK Government's White Paper	
8 September	Letter from UKG ministers to MET&NW: Outline of the UK Internal Market Bill ahead of its publication on 9 September	
22 September	Letter from SoS for BEIS to CGMET: Response to Welsh Government analysis of the White Paper (14 August)	
25 September	Publication of the Welsh Government's legislative consent memorandum: <a href="https://senedd.wales/laid%20documents/lcm-ld13513/lcm-ld13513-e.pdf">https://senedd.wales/laid%20documents/lcm-ld13513/lcm-ld13513-e.pdf</a>	
28 September	Meeting between CGMET, Chloe Smith MP (Cabinet Office Minister for the Bill) and SoS for Wales	
w/c 5 October	Series of official-level meetings between Welsh Government and BEIS, Cabinet Office & Wales Office: 1) Part 4: Office of the Internal Market 2) Part 5: NI Protocol and Part 7: Protected enactment status 3) Parts 1-3: Mutual recognition and non-discrimination	

	4) Part 7: Subsidy control 5) Part 6: Financial assistance powers	
13 October	Meeting between CGMET, Chloe Smith MP, and Simon Hart MP.	
15 October	Publication of the Welsh Government's proposed amendments to the Internal Market Bill: <a href="https://gov.wales/written-statement-welsh-government-amendments-united-kingdom-internal-market-bill">https://gov.wales/written-statement-welsh-government-amendments-united-kingdom-internal-market-bill</a>	
16 October	Official-level meeting between the Welsh Government and UK Government to discuss the amendments	



## Department for International Trade

The Rt Hon. Greg Hands MP  
Minister of State for Trade Policy  
Department for International Trade  
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## Agenda Item 3.5

David Rees MS  
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Our ref: MCB2020/05291

By email: [SeneddEAAL@senedd.wales](mailto:SeneddEAAL@senedd.wales)

27 October 2020

Dear Mr Rees,

Thank you for your letter of 14 October regarding access to trade negotiation documents following the 24 September meeting of the External Affairs and Additional Legislation Committee.

The eleven TAGs represent specific sectors vital to the economy, and their expertise is drawn upon to inform and strengthen the UK's negotiating position and trade. Members have been selected to ensure all UK regions are represented, with a good cross-section of businesses and a range of expert advice.

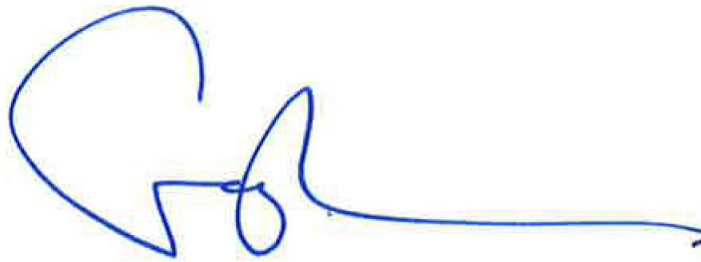
As Baroness Morgan noted in the same committee appearance you have raised, the relationship between DIT and the Welsh Government is both positive and strong. Our programme of engagement with the devolved administrations is comprehensive, in depth and constructive. We share written information that relates directly to the competence of the Welsh Government and Senedd. Furthermore, we engage across all areas of trade policy, including those areas that relate solely to reserved competence, ensuring there is a good understanding of the positions that are developed and any underlying analysis.

All devolved administrations, including the Welsh Government, are involved in the development and delivery of trade policy in the broadest possible terms whilst respecting the current constitutional settlement, with the negotiation of international trade agreements being reserved.

I would like to take this opportunity to thank the committee for their interest in our work and note that we continue to welcome the constructive and useful input of the Welsh Government in our FTA programme.

I am copying this letter to Minister Miles in the Welsh Government.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'G' followed by a horizontal line.

**THE RT HON GREG HANDS MP**  
Minister of State for Trade Policy  
Department for International Trade

**Jeremy Miles AS/MS**

**Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition**

**Agenda Item 3.6**



**Llywodraeth Cymru  
Welsh Government**

Eich cyf/our ref  
Ein cyf/Our ref

David Rees MS  
Chair of External Affairs and Additional Legislation Committee  
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28 October 2020

Dear David,

Thank you for your letter of 14 October. Please find attached a copy of the correspondence sent by the Minister for International Relations and Welsh Language on 23 September in relation to the UK Government's Trade Advisory Groups (TAGs) and other stakeholder engagement matters. I have also attached a list of the Welsh Government's Trade Policy Advisory Group members as requested.

Unfortunately I am unable to provide you with correspondence on this matter from my officials. My officials do not correspond formally in this way with their counterparts in the Department for International Trade (DIT) despite working very constructively together. If issues need raising formally that is done through Ministerial correspondence.

Yours sincerely,

**Jeremy Miles AS/MS**

**Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition**

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Ein cyf/Our ref IM/EM/00509/20

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Minister of State  
Department for International Trade  
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23 September 2020

Dear Greg,

Thank you for your letter of 25 August about the creation of a cohort of Trade Advisory Groups (TAGs) which will provide advice to your department to inform free trade agreement negotiations. I thought I would use the opportunity to set out some of my thoughts around stakeholder engagement more generally and how we might work better together in this crucial area. I would be keen to discuss this with you in our next bilateral.

### **TAGs and STAG**

With regards to the TAGs, I am pleased that the agri-food group membership includes Welsh representation from farming unions as this is, as you know, a key sector for us. However, I would have liked to have seen the sector in Wales more broadly represented and the supply chain adequately picked up. I am also very disappointed at the lack of Welsh representation on the other TAGs, particularly on the automotive, aerospace and marine group, and the financial services group. For example, Admiral Group plc, Wales' only indigenous FTSE 100 business, and the Welsh Automotive Forum would have brought a great deal of knowledge and expertise to the financial services and automotive, aerospace and marine groups respectively. We would have been pleased to engage with you on the recruitment process for the TAGs and nominate Welsh companies for you to consider and approach.

I would be keen to discuss with you how we might improve the engagement between your department and Devolved Administrations in relation to stakeholder advice and involvement. It would be helpful if your department could engage with my officials more closely on external stakeholder engagement matters, particularly the TAGs. This will ensure that the

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

advice you are receiving from businesses to inform UK trade policy supports all parts of the UK. For example, it would be appreciated if you could invite my officials to observe TAG meetings or, at the very least, share minutes of those meetings with us. In respect of the STAG, it would be useful to understand whether Wales will be represented on the group, and to be sighted on the details of the new members in advance of publication.

### **The Trade and Agriculture Commission**

On the subject of stakeholder engagement I would also like to raise the new Trade and Agriculture Commission (TAC) with you. I understand that my officials have received an update from your department on the work of the Commission to date and on the working groups that are currently being set up. We are grateful for this engagement. However we still have some questions about the role of the TAC, particularly where recommendations may impact on domestic policy, which is of course devolved for agriculture. I would appreciate reassurance that any recommendations made by the Commission will be aimed purely at the UK Government and in reserved areas. Should input be sought on matters that are devolved, such as domestic standards or agriculture support policy, it should be made clear to stakeholders that the Commission is only seeking views on policy that will apply in England. I would also like to be clear that although we appreciate and fully support the inclusion of Welsh stakeholders on both the TAC itself and its working groups, we do not believe this approach in itself will adequately capture all Welsh views.

I would reiterate that I am keen to discuss how we might ensure genuine and inclusive engagement in the establishment of UK stakeholder groups in future as we have considerable first hand expertise and knowledge that I feel could significantly enhance your selection pool. I look forward to discussing these issues with you soon.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

### **Eluned Morgan AS/MS**

Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol  
Minister for International Relations and the Welsh Language

## **Welsh Government Trade Policy Advisory Group**

### **Core Members:**

1. Food and Drink Industry Board Wales – represented by Andy Richardson, Head of Corporate Affairs, Volac International Limited
2. Hybu Cig Cymru – Meat Promotion Wales – Kevin Roberts, Chair
3. TUC Cymru – Shavannah Taj, General Secretary
4. FairTrade Wales – Aileen Burmeister, National Co-ordinator
5. Welsh Automotive Forum – Tim Williams, Chief Executive Officer
6. MediWales – Life Sciences Network for Wales – Debbie Laubach, Operations Manager
7. Aerospace Wales – represented by Madeleine Pinder, Marketing and Communications Manager, Spectrum Technologies
8. Make UK – Richard Rumbelow, Director of International Affairs and Export Services
9. FinTech Wales – Gavin Powell, General Secretary, FinTech Wales
10. IQE – Chris Meadows, Investor Relations Manager

David Rees MS  
Chair  
External Affairs and Additional Legislation Committee  
Senedd Cymru

[SeneddEAL@senedd.wales](mailto:SeneddEAL@senedd.wales)

3 November 2020

Dear Chair

I am writing to let you know the 34<sup>th</sup> summit of the British-Irish Council will be held later this week. Member Administrations agreed to postpone the summit scheduled earlier in the year. It will be hosted virtually by the Scottish Government.

The Minister for Economy Transport and North Wales and I will be representing the Welsh Government. The summit will focus on recent political developments, including our economic recovery from coronavirus.

A communiqué will be agreed by the council at the summit and I will update Members about its publication and the outcome of the summit, in due course.

The summit will be preceded by a BIC Environment work sector Ministerial meeting to review collaboration on the marine environment, climate change and invasive non-native species. The Minister for Environment Energy and Rural Affairs will represent the Welsh Government at this meeting.

In a statement on intergovernmental relations last week, accompanied by the Welsh Government's first annual report to the Senedd on intergovernmental relations for the period April 2019 to March 2020, laid on 27 October, I underscored the importance of our relationships with our British-Irish Council partners. I hope this relationship will continue to grow in significance as the council continues to demonstrate what can be achieved through dialogue and collaboration.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I have also written to the chair of the Legislation, Justice and Constitution Committee, Mick Antoniw MS and the chair of the Climate Change, Environment and Rural Affairs Committee, Mike Hedges MS.

Best wishes

A handwritten signature in dark ink, reading "Mark Drakeford". The signature is written in a cursive, flowing style with a large initial 'M'.

**MARK DRAKEFORD**

Jeremy Miles AS/MS

Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition

## Agenda Item 3.8



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

David Rees MS

Chair of the External Affairs and Additional Legislation Committee  
Senedd Cymru  
Cardiff Bay  
CF99 1NA

3 November 2020

Dear David,

Thank you for your letter of 30 September and a copy of your report which were sent to Eluned Morgan MS, the then Minister for International Relations and the Welsh Language. Following recent changes to Ministerial portfolios, I am responding as I am now leading trade policy matters on behalf of the First Minister.

I would like to thank the Committee for its scrutiny of the Trade Bill LCM. Please find the Welsh Government's response to the report's recommendation at Annex A. In addition, two concerns were raised within the report which are not associated with any recommendations and I have addressed these below:

*The Welsh Government's reliance on Ministerial commitments as a basis for recommending the granting of legislative consent*

The Committee has recognised the efforts made by my predecessor to secure concessions to this Bill in difficult circumstances where the UK Government has little motivation to compromise. Whilst I agree that non-legislative agreements are far from ideal, this recognised and accepted method does at least exert some pressure on the UK Government to adhere to its promises. I fully understand your concerns about holding the UK Government to account, and I can assure you that this is a priority for me too.

Bae Caerdydd • Cardiff Bay  
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[YPCCGB@llyw.cymru](mailto:YPCCGB@llyw.cymru) [PSCGMET@gov.wales](mailto:PSCGMET@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

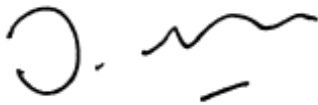
*Extending the period within which clause 2 powers can be used*

The Welsh Government previously reached a position where it was content to recommend legislative consent to clause 2(7) on the basis of the non-legislative commitments secured from the UK Government during the passage of the Trade Bill 2017-19. These included a despatch box commitment to engage with devolved administrations before extending the period during which clause 2 powers can be used under the Bill. The Senedd accepted this position and provided legislative consent on this basis. In addition, and as noted in your report, the Minister for International Relations wrote to her counterpart on 11 September requesting a further restatement of the commitment relating to the sunset provision clause. An explicit restatement of the commitment was made at committee stage in the Lords on 8 October.

As I have said, I agree that relying on despatch box commitments is not ideal, but they have been accepted including by the Senedd to date as a legitimate device that devolved governments can use to hold the UK Government to account in relation to UK Bills, in the absence of other protections. It would therefore be consistent with the approach taken in other legislation to rely on a despatch box commitment in this instance.

I would be happy to expand on any of my responses at the next EAAL scrutiny session meeting on 5 November.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a series of loops and a horizontal stroke.

**Jeremy Miles AS/MS**

Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
Counsel General and Minister for European Transition

## Annex A

### Welsh Government Responses to Recommendations from the External Affairs and Additional Legislation Committee on the Legislative Consent Memorandum for the UK Trade Bill

<b>Recommendation</b>	<b>Welsh Government Response</b>
<b>Recommendation 1</b>  We again recommend that an affirmative procedure be applied to the making of regulations to update the list of public bodies in Wales that will be subject to the GPA.	<b>Decision – Reject</b>  The Welsh Government has not previously raised objections to regulations made under clause 1 being subject to the negative procedure and this was the basis on which it recommended that the Senedd provided legislative consent to the Trade Bill 2017-19.  In coming to this position, the Welsh Government has taken into account the fact that this power would be exercised to make largely technical changes to existing domestic legislation in order to implement the GPA once the UK is an independent member. For example, this could include amendments to the Procurement Contract Regulations 2015 to ensure that the list of central government contracting authorities covered by those regulations is consistent with the UK's obligations under the GPA. It could also include amendments to domestic legislation in response to another party joining the GPA or in response to a current member leaving the GPA.  The extent of discretion that could be exercised by either UK Ministers or the Welsh Ministers is very limited in practice.  The Senedd accepted this position when it agreed a legislative consent motion on 12 March 2019, and subsequently on 21 May 2019 in light of two supplementary legislative consent memoranda. It was accepted there was very little chance of successfully securing an amendment from the UK Government to change the proposed procedure from negative to affirmative at that time.  Since that time, the prospect of an alternative stance resulting in practical change is also worth noting, simply for completeness. The current UK Government is in a strengthened position, having won a significant majority in parliament, and given that its position is that it isn't open to changing the procedure to be applied to regulations made under clause 1, it is worth simply noting that it is practically speaking extremely unlikely that any representations we should make to the UK Government on this matter would receive serious consideration.  <b>Financial Implications – None.</b>

# Agenda Item 6

By virtue of paragraph(s) vi of Standing Order 17.42

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