



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

seneddijc@senedd.wales

6 October 2022

Dear Huw,

I am writing in response to your letter regarding UK-EU agreements. The responses to the questions in your letter can be found in the attached Annex.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Drakeford".

MARK DRAKEFORD

Annex

Responsibilities

1. Could you explain how engagement with the governance of UK-EU agreements is coordinated within the Welsh Government?

The Directorate for European Transition, Constitution and Justice (ETCJ) has lead responsibility for this purpose.

2. Could you clarify which Minister leads on coordinating this work across Welsh Government departments?

The Minister for Economy has lead responsibility in the Welsh Government for co-ordination of matters relating to the UK-EU agreements. As First Minister I remain responsible for all issues relating to International Relations.

TCA Governance: Partnership Council

3. In light of the concerns which you and the Minister for Economy raised last year on the observer status granted to you at meetings of the Council, are you able to provide an update on the status which will be provided to you for the second meeting, when it is held?

This will depend on discussions to be held with UK Ministers after the appointment of the new UK Prime Minister.

4. Could you outline the role you have in decision-taking at the Partnership Council, including between meetings?

The Welsh Government has no formal role in the Partnership Council as this is constituted by the UK Government and the EU.

Domestic Advisory Groups

5. Do you have any information or concerns to share about Wales's representation on the UK Government's Domestic Advisory Group?

The list of current member bodies is available at [UK-EU Trade and Cooperation Agreement Domestic Advisory Group - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/uk-eu-trade-and-cooperation-agreement-domestic-advisory-group) it includes the Wales Council for Voluntary Action (WCVA) and a number of bodies that have interests covering Wales as part of their wider remit. The process for expressions of interest was re-opened and closed on 16 September and the membership will be kept under review.

6. Will Welsh Government officials be able to attend meetings of the UK Government's Domestic Advisory Group and if not how will it engage with any Welsh stakeholders appointed to the Advisory Group?

The DAG is intentionally constructed as independent of government. It has agreed its Rules of Procedure [UK TCA DAG Rules of Procedure.pdf \(publishing.service.gov.uk\)](#). These make provision for officials from the UK and Devolved Governments to “*be invited to attend DAG meetings with a view to participating in discussions or to make presentations on specific subjects*”.

The Rules of Procedure also commit the UK Government to informing the DAG of relevant information and to responding to its views thereon.

We will ensure that we stay in active contact with the WCVA and any other stakeholders covering Welsh interests.

The Committee may also wish to note that the Rules of Procedure state that: “*The location of the UK DAG plenary meetings shall be rotated among the four UK home nations.*”

7. Will the devolved governments be able to suggest items for discussion at Domestic Advisory Group meetings?

The setting of agendas is essentially a matter for the DAG Chair, after consultation with the Vice-Chairs, with involvement from its members. The UK Government is also explicitly able to suggest agenda items. Welsh Government agenda items can be suggested through either of these routes.

Meetings under the TCA

8. Can you clarify if the Welsh Government receives invites to all meetings or only some?

We would expect to receive invitations from the UK Government to planned meetings under the TCA involving areas of devolved interest.

9. Can you clarify the criteria the Welsh Government uses to decide whether or not officials attend meetings?
10. What consultation takes place within the Welsh Government on whether or not anyone should attend? How is any information gathered from the meetings collated and shared within the Welsh Government and where appropriate with possible stakeholders?
11. Could you explain the Welsh Government’s decision-making processes for attendance at meetings under the Trade and Co-operation Agreement?

The subject matter of questions 9 to 11 is overlapping and I have grouped them together for response.

Our main concern is to be actively involved in the substance of business in relation to such meetings, including the preparation of positions before meetings, and the

follow-up actions thereafter, as well as the meetings themselves. Normally, in cases where the Welsh Government has a significant interest in an issue, there will have been active engagement between the Welsh Government and the UK Government. Ensuring this process works well is a priority for us in the functioning of the UK-EU relationship as a whole. In all cases, the lead policy officials in the Welsh Government will be able to determine whether to attend meetings. The ETCJ Directorate plays a co-ordinating role across the Welsh Government on all these issues and will support individual policy teams in sharing best practice on such matters.

Compliance

12. In light of previous concerns, the Welsh Government has raised in relation to the UK Government's decisions being in compliance with the TCA, could you confirm whether the Welsh Government actively monitors TCA compliance?

The Welsh Government seeks to ensure compliance with its own obligations deriving from the TCA. Compliance by the UK Government in relation to its own specific obligations under the TCA is its own responsibility.

Impact of the Withdrawal Agreement on the TCA

13. Does the Welsh Government consider that the introduction of the Northern Ireland Protocol Bill constitutes a breach of the Withdrawal Agreement?

While it will be for the Courts to determine if there is a breach, the view of the Welsh Government is that the Bill has the potential to constitute a breach of the Agreement.

14. What is the Welsh Government's assessment of how a potential breach of the Withdrawal Agreement might impact the TCA's operation in Wales?

The Welsh Government has not made a specific assessment of how a potential breach of the Withdrawal Agreement might impact the operation of the TCA in Wales, given that would largely depend on the actions the EU might choose to take regarding the TCA in response to a breach of the Withdrawal Agreement.

We have, though, made strong representations in intergovernmental meetings about the unsatisfactory position in which we find ourselves, in particular in relation to the association with EU programmes such as Horizon. As things stand, until the issue with the Protocol is concluded these wider matters will not be resolved and, on that basis, we have made clear our position to UK Government Ministers.

15. How, if at all, is the Welsh Government consulted by the UK Government on potential breaches of the Withdrawal Agreement?

The Welsh Government was not consulted prior to the introduction of the Northern Ireland Protocol Bill.

16. Do the Welsh and UK governments have agreed processes in place for potential breaches, or for notification of any retaliatory actions taken by the EU?

The Welsh Government, including our office in Brussels, is working with the UK Government and devolved counterparts to monitor any retaliatory actions taken by the EU.

17. Are existing intergovernmental mechanisms used for, or intended to be used for, this purpose and, if so, which ones?

The UK-EU Relations Interministerial Group is the most appropriate forum for discussion of matters relating to the TCA and the Withdrawal Agreement.

Intergovernmental Relations

18. Could you outline your preferred frequency and timings of meetings for the Interministerial Group on UK-EU relations, and whether this has been communicated to the UK Government?

It has been provisionally agreed that meetings of the IMG should be held quarterly, including ahead of meetings of the Partnership Council and/or the Joint Committee for the Withdrawal Agreement, as appropriate. The Terms of Reference for the IMG have not yet been formally agreed, as the Northern Ireland Executive is not in a position to do so. The issue of ensuring a substantive and engaged partnership between the UK Government and the three Devolved Governments in the relationship with the EU is fundamental. I expect to raise this with the incoming Prime Minister should such an opportunity arise.

19. What discussions have taken place between you and the UK Government to address the issue of meetings being called with sufficient notice

Strong representations have been made on this matter. I would expect wider discussions with new UK Ministers, once they are in place, to address this.