

Rt Hon Mark Drakeford MS

First Minister

20 July 2022

Dear Mark

UK-EU agreements

Thank you again for the **correspondence** we exchanged earlier this year in relation to the UK-EU Trade and Co-operation Agreement (TCA).

Since the TCA has now been in effect for a year, we would like to share our observations on its implementation and governance. We would be grateful for a response to the questions as set out below, by 5 September 2022.

Responsibilities

We note that at some TCA meetings, the Welsh Government is represented by the Minister for Economy, Vaughan Gething. Although the Minister's portfolio responsibilities include trade and coordination of TCA matters, your responsibilities as First Minister include Wales in Europe, international relations and intergovernmental relations. Similarly, the Minister for Social Justice's responsibilities include EU citizens' rights under the Withdrawal Agreement.

We also note that the former MEP, Derek Vaughan, has also been appointed as the Welsh Government's **new European representative** to support its work in Europe, including engaging with politicians and officials at EU institutions and promoting the Welsh Government's policy agenda in the EU.

1. Could you explain how engagement with the governance of UK-EU agreements is coordinated within the Welsh Government?
2. Could you clarify which Minister leads on coordinating this work across Welsh Government departments?



TCA Governance: Partnership Council

We note that the Partnership Council is yet to hold its second meeting.

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?

We note that the Partnership Council can take **decisions in writing** between meetings but it is not clear to us what role, if any, the devolved governments have in making these decisions.

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

Domestic Advisory Groups

In your **letter of 10 March**, you told us that you did not know which Welsh organisations had submitted Expressions of Interest for membership of the UK Government's Domestic Advisory Group as a number of the submissions did not give permission for their information to be shared outside the UK Government. Based on the limited information available to us, we are concerned as to the extent to which Wales is represented in the UK Government's Domestic Advisory Group.

5. Do you have any information or concerns to share about Wales's representation on the UK Government's Domestic Advisory Group?
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?
7. Will the devolved governments be able to suggest items for discussion at Domestic Advisory Group meetings?

Meetings under the TCA

Welsh Ministers or their officials have attended most TCA meetings, regardless of whether the subject is in a devolved or reserved area.

We note from the minutes of meetings published by the European Commission that no representatives from the Welsh Government were in attendance in some meetings which cover its responsibilities, such as on **procurement**. In particular, while officials from the Scottish Government, Northern Ireland Executive and Isle of Man Government were in attendance at meetings on **road transport** and **VAT, recovery of tax and duties**, officials from the Welsh Government were not. We believe that you should ensure attendance by the Welsh Government at all meetings that impact Wales, whether at ministerial or official level.

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

In your letter of 10 March, you said that you are happy to explore how you can provide more information about the Welsh Government's involvement in TCA structures on "a proportionate and pragmatic basis". I am grateful for your suggestion that your officials meet with our Committee Clerk to provide an update on discussions they are having with their counterparts in other administrations in the UK on ways to improve transparency; our clerking team will liaise with your officials. This information will be particularly helpful in supporting the work of Members of the Senedd attending the UK-EU Parliamentary Partnership Assembly.

Compliance

In January, **we raised concerns** with the Minister for Rural Affairs and North Wales and Trefnydd on her assessment that the Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021 "raised questions" in relation to the WTO and the TCA. This was because the UK Government had taken a "last minute decision" to continue the exemption for pre-notification of goods from the island of Ireland. The Minister explained **in her response** that the UK Government's decision did not form part of intergovernmental discussions on the regulations and was added at a later date. Nevertheless, she explained she was satisfied that the regulations were "temporary in nature" and "necessary and proportionate".

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?

Impact of the Withdrawal Agreement on the TCA

The Minister for Economy explained in his **letter of 27 June** on the Northern Ireland Protocol Bill that he had "major concerns" that the Bill has the potential to breach international obligations. He also noted the "complete absence of meaningful engagement" by the UK Government ahead of its introduction. Although the Welsh Government was not consulted on this occasion, we would like to gain an understanding of how it is otherwise consulted on potential breaches of the Withdrawal Agreement.

13. Does the Welsh Government consider that the introduction of the Northern Ireland Protocol Bill constitutes a breach of the Withdrawal 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?
15. How, if at all, is the Welsh Government consulted by the UK Government on potential breaches of the Withdrawal Agreement?
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?
17. Are existing intergovernmental mechanisms used for, or intended to be used for, this purpose and, if so, which ones?

Intergovernmental relations

We welcome your commitment under the Inter-institutional Relations Agreement to proactively provide information on intergovernmental meetings, including those of the Inter-ministerial Group on UK-EU relations. We also note the Counsel General's **suggestion** that the Group should meet regularly, including before meetings of the Partnership Council and the Withdrawal Agreement's Joint Committee.

The Committee notes with concern the frequency of intergovernmental meetings being called at short notice by the UK Government on UK-EU matters. We note the latest such instance, in relation to the Inter-ministerial Group on UK-EU relations, described in correspondence from the Minister for Economy on 14 July.

18. Could you outline your preferred frequency and timings of meetings for the Inter-ministerial Group on UK-EU relations, and whether this has been communicated to the UK Government?
19. What discussions have taken place between you the UK Government to address the issue of meetings being called with sufficient notice?

Yours sincerely,



Huw Irranca-Davies

Chair