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**ADDITIONAL INFORMATION REQUESTED FOLLOWING 11 OCTOBER EAAL
COMMITTEE APPEARANCE**

I write to follow up on my appearance at the External Affairs and Additional Legislation Committee on 11th October, which I hope you found informative. During this meeting, the committee requested further information on some areas, including progress on the review into intergovernmental structures, clarification on Welsh ports and the necessity of non-disclosure agreements, support of no deal preparations in the manufacturing sector, and other exit-related primary legislation. I am writing to provide further clarification on these topics, and to answer the further questions that the Committee did not have time to address on the day, which were set out in your letter of 25 October.

Review of Intergovernmental Relations

The committee enquired about progress on the joint review into intergovernmental relations, including timing of the work programme. The UK Government is committed to reviewing the existing intergovernmental structures, including the Memorandum of Understanding, to ensure they are fit for purpose in light of the UK's exit from the EU. UK Government officials are collaborating with their devolved administration counterparts to take this work forward. Over the summer, officials jointly developed key themes and workstreams from the review which they are taking forward. They will report their findings to the Joint Ministerial Committee (Plenary) in due course.

Non-disclosure agreements with Welsh ports

The committee asked for clarification on whether there has been a need for Welsh ports to sign non-disclosure agreements (NDAs), and if so, what the reasons for these are. It is worth noting that it is standard practice across Government to hold some conversations on confidential terms. The Border Delivery Group (BDG) runs a number of steering groups with ports, airports, and other stakeholders, and NDAs are in use for all of these. As such, the Welsh Ports and Airports Steering Group is also conducted under an NDA as is the standard practice.

As part of border planning work the Government has used such agreements in its steering groups because it makes it easier for attendees to share commercially sensitive information as they can be sure of the terms on which it will be used. The approach therefore allows for a more free exchange of views about options and potential impacts in advance of there being settled policy. It is anticipated that NDAs will be a diminishing feature of these steering groups as an increasing amount of information is made available generally - for example, through the technical notices and the partnership pack.

Financial support

The Committee asked whether the UK Government was involved in the Welsh Government's decision to offer financial support to Airbus and Ford through their Transition Fund and to what extent UK and Welsh Governments are coordinating support for the manufacturing sector to help it prepare for exit.

The UK Government was not directly involved in this decision, but were informed ahead of the announcement of 24 September by the First Minister. We are determined to ensure that the UK, as a whole, continues to be one of the most competitive locations in the world for aerospace and other advanced manufacturing.

EU exit-related primary legislation

The Committee also sought clarity on EU exit-related primary legislation that is likely to require legislative consent from the National Assembly for Wales.

The UK Government is committed to seeking legislative consent and working with the devolved administrations and legislatures on Bills according to the established practices. We have already received consent from the National Assembly for Wales on the European Union (Withdrawal) Act. We expect the legislative consent process to be engaged for the following exit-related bills in passage:

- Trade Bill
- Agriculture Bill
- Fisheries Bill
- Healthcare (International Arrangements) Bill

Additional questions from the Committee

1. Can you provide an update on the UK Government's discussions with the UK Parliament on developing scrutiny arrangements for EU law during the implementation period?

The Secretary of State for Exiting the European Union recently sent a letter to the Chairs of the House of Commons European Scrutiny Committee and House of Lords EU Committee, reiterating the UK Government's commitment to continue to support and facilitate parliamentary scrutiny of new EU legislation during the implementation period.

As the Secretary of State said, we will be working closely with the UK Parliament to agree upon a scrutiny system which facilitates the UK Parliament's role in scrutinising new EU proposals that may affect the UK during the implementation period.

Of course the level and degree of scrutiny the UK Parliament wishes to give to ongoing EU business will remain a matter for both Houses, and that will naturally need to be determined in the light of the detailed arrangements for the implementation period agreed between the UK and the EU.

2. Should concerns about draft EU laws arise during the implementation period, how will the UK Government raise these concerns with the EU?

The implementation period will give businesses and citizens certainty by ensuring common rules remain in place allowing businesses and individuals to continue their affairs on the same terms as now up until the end of 2020. During this strictly time limited phase following our exit from the EU, very few new laws on which the UK has not had already had a say will come into application.

The Withdrawal Agreement, including the implementation period, is underpinned by commitment to act in good faith and will be governed by a Joint Committee to ensure the agreement is faithfully and fully implemented by both sides.

Although, as a non-Member State the UK will not be part of the EU legislative process, the Government will robustly defend UK interests through all the channels available to us during the implementation period. This will include discussing shared policy interests in our strong bilateral relationships with the EU's Member States and Institutions and using the Joint Committee to monitor the implementation and application of the Withdrawal Agreement, including its specific provisions on consultation with the UK in the implementation period.

One of our key objectives throughout this process has been to ensure that throughout the implementation period, the UK's voice is heard and the UK interests are protected.

Furthermore, as part of our positive new relationship with the EU following our exit, we will continue to be closely diplomatically engaged with the EU Institutions and the EU Member States regarding all issues of interest to the UK, beyond March 2019. We envisage that

these diplomatic networks will continue to provide the UK with the means to address any issues, through dialogue, at the earliest opportunity.

3. What mechanisms will be available for the devolved governments to raise any EU law issues that might arise for them during the implementation period?

We recognise the importance of the devolved administrations being able to feed in their views on aspects of ongoing EU business during the implementation period, including where upcoming EU law may have specific implications for the devolved administrations. The devolved administrations are currently engaged in ongoing EU business both at an official level and ministerial level, and this will continue during the implementation period. This engagement currently takes place through the Joint Ministerial Committee (Europe), which Mark Drakeford attends for the Welsh Government.

4. Can you share any assessment that has been made of new EU law that is expected during the implementation period?

The 2019 Commission Work Programme (CWP) contains a list of legislation and other initiatives that the Commission plans to progress over the coming year. The Commission Work Programme focuses heavily on the need for swift agreement on outstanding legislative proposals. To that end, we expect that in 2019 the Commission will remain focussed on delivering outstanding actions and completing negotiations on live dossiers. The 2021-27 Multiannual Financial Framework, proposals relating to migration and completing the Digital Single Market will continue to be Commission priorities in 2019.

The CWP also outlines some new proposals, for example the ending of seasonal clock changes, and a move to Qualified Majority Voting in some areas of Common Foreign and Security Policy. Additionally, the Commission highlights the need for 'Brexit Preparedness Legislation' and to find agreement with the UK to ensure its orderly withdrawal from the EU, while opening a clear perspective for a close future partnership. The UK Government have been working closely with the devolved administrations on the CWP.

5. Will the UK Government consider committing to stating in the Explanatory Memorandum accompanying future Brexit Bills, when - in the terms of the Sewel Convention – it considers the circumstances to be 'not normal'?

The UK government will seek the consent of the National Assembly in the usual way when parliamentary Bills include provision within the Assembly's legislative competence. This commitment applies to Bills relating to EU exit as much as any to other subject. The procedure for seeking the consent of the Assembly, through Legislative Consent Motions (LCMs), is set out in Devolution Guidance Note 18 (DGN18).

Our commitment to not normally legislate with regard to devolved matters without the consent of the Assembly is enshrined in the Government of Wales Act 2006, and is a commitment we stand by fully. The UK Government and the Welsh Government are working closely to ensure agreement on provisions in EU exit Bills which fall within devolved


competence, and we trust this work will enable the Assembly to approve relevant Legislative Competence Motions (LCMs). Explanatory Memorandums (EMs) accompanying parliamentary Bills make clear when we expect an LCM to be sought; it would not be appropriate to detail in these Memorandums the circumstances which we consider to be “not normal”.

6. Given that significant changes were made to the EU (Withdrawal) Act 2018 during the ‘ping pong’ stage of the scrutiny process, and that there is very limited time for supplementary Legislative Consent Motions in these circumstances, can you provide assurance that every effort will be made to seek legislative consent if amendments fall within the legislative competence of the Assembly – even if they are tabled at a late stage of the legislative process?

We will make every effort to seek legislative consent, take on board views, and work with the devolved administrations on future Bills according to the established practices - just as we have always done. We do, however, need to be mindful that the amendment process can be very fast. Our main objective for the whole of the UK is to be ready for exit day.

At this stage our assessment is that there are parts of the Withdrawal Agreement Bill that we expect will engage the legislative consent process, such as the implementation period and the citizens’ rights part of the draft Withdrawal Agreement that touch on devolved matters. UK Government officials have held initial discussions with Assembly clerks on the Bill including on expected timings and our intention is for that engagement to continue.

I am copying this letter to Mark Drakeford AM, Welsh Government Cabinet Secretary for Finance, Elin Jones AM, Presiding Officer of the National Assembly for Wales, the Chancellor of the Duchy of Lancaster, the Secretary of State for Exiting the European Union and the Secretary of State for Wales.

A handwritten signature in black ink, appearing to read 'Robin Walker', written in a cursive style.

**ROBIN WALKER MP
PARLIAMENTARY UNDER SECRETARY OF STATE FOR
EXITING THE EUROPEAN UNION**