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Our reference: MC2020/17995

GfL January 2021

PO 2021

Thank you for your letter of 11 November.

You asked about governance of the Withdrawal Agreement. The Government takes its commitment to transparency regarding the work of the Withdrawal Agreement Joint Committee seriously and my officials have been considering in detail what future arrangements could look like. Any future system of scrutiny will need to reflect the unique significance of the Withdrawal Agreement for Northern Ireland. Much of the legislation that will apply to Northern Ireland falls under the exclusive competence of its institutions, and it is important that oversight of devolved policy responsibilities continues to rest primarily with the Assembly. Now we have reached an agreement, we look forward to beginning discussions with your committee and other relevant parties in the Assembly on the nature of future scrutiny arrangements.

You asked about the Joint Consultative Working Group. I agree about the importance of the Group. The Rules of Procedure for the Group required agreement by the EU. Please find attached confirmation of the EU Council's decision of 23 October (Council Decision (EU) 2020/1599). We will work with the Commission to set up the Group as a working body, arrange a date for the first meeting, to discuss the modalities of its operation.

At the Ireland/Northern Ireland Protocol Specialised Committee we have set out our commitment to include representatives of the Northern Ireland Executive as part of the UK delegation on the Group. Additionally, as set out in the proposed rules of procedure at Rule 3, where appropriate and by decision of the co-chairs, experts or other persons who are not members of delegations may be invited to attend meetings to provide information on a particular subject.

We remain committed to the proposal in our May Command Paper to hold a dedicated session on Article 2.

Regarding Protocol alignment, Article 13 of the Protocol sets out the process for how new EU acts within the scope of the Protocol are to be considered by the Withdrawal Agreement Joint Committee. We will engage further with the Committee on the means for scrutinising this legislation.

Regarding influencing EU policy, the Withdrawal Agreement and Articles 13 and 15 of the Protocol set out the relationship between the UK and the EU in respect of the ongoing implementation of the Protocol. Officials will continue to work closely with the UK Parliamentary scrutiny committees, the Northern Ireland Executive and Northern Ireland Assembly as we design the overall governance process post-transition period.

On Common Frameworks, these have been developed, and their progress reviewed, jointly by officials from the UK Government and the Devolved Administrations, including officials from the Northern Ireland Executive. Frameworks are drafted with the Protocol and the Belfast (Good Friday) Agreement in mind. The Government committed in the *New Decade, New Approach* agreement to unfettered access for Northern Ireland businesses to the whole UK market, and legislated for it.

The annexes to the Protocol list specific EU laws that will continue to apply in Northern Ireland. The Withdrawal Agreement Joint Committee will be the forum for agreeing changes to the legislation in the annexes to the Protocol.

Common Frameworks, once operational, will provide the mechanism by which any divergence resulting from the legislation listed in these annexes can be appropriately managed, with the parties to the frameworks agreeing a common approach that works for consumers and businesses. Every framework contains a review and amendment mechanism that allows the framework to be reviewed should a substantial issue be flagged.

The UK Government has worked with the Devolved Administration to agree a delivery plan for UK Common Frameworks. Whilst legislatures may have differing interests in individual frameworks, they will all be given the same opportunity to scrutinise frameworks relating to their nation.

Regarding treaty and trade negotiations, international relations remain a reserved matter and it is for the UK Government to negotiate on behalf of the UK as a whole. The UK Government has worked closely with the devolved administrations throughout our negotiations with the EU. The UK Government will continue to engage at both ministerial and official level, and we greatly value input from the Northern Ireland Executive, and all the devolved administrations. As you will know, JMC(EN) served as the principal route for devolved administration ministers collectively to input into the UK's approach to negotiations. We also continue to engage the devolved administrations, including the Northern Ireland Executive, at all levels as we take forward Protocol implementation.

Turning to inter-governmental relations (IGR), I am pleased by the progress all Administrations have made in developing a package of reforms for IGR and we are close to concluding that review. In August and September, my colleague, the Minister for Constitution and Devolution met with her counterparts to discuss a proposal for dispute avoidance and resolution, options for machinery to improve the existing Joint Ministerial Committee structures, secretariat and transparency arrangements, and a proposed delivery plan to conclude the review. All parties endorsed the direction of travel and, since then, work has progressed at official-level during the

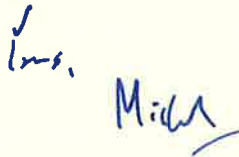
final stages of developing a package of reforms. I discussed progress on the IGR Review at JMC(EN) on 3 December and all administrations agreed to accelerate this work.

In the context of wider events, it has not been possible to do that before the end of the year. Our ambition of course remains to conclude the IGR review at the earliest opportunity, and publish that alongside the Dunlop Report.

The Government also announced measures to improve reporting by the UK Government on inter-governmental activity on GOV.UK and to the UK Parliament.

More broadly, our approach to IGR is to create a system that secures strategic cooperation on all cross-cutting domestic issues, which includes those relating to the UK internal market. We welcome discussions with the devolved administrations. Specifically in relation to the consultation requirements that, following Government amendments, are now attached to powers in the UK Internal Market Bill, the Government has already proposed a regular meeting with the devolved administrations to consider the UK internal market system once in operation.

With every good wish,

A handwritten signature in blue ink, appearing to read 'Mrs. Michael', with a flourish underneath.

**Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
and Minister for the Cabinet Office**

COUNCIL DECISION (EU) 2020/1599**of 23 October 2020****on the position to be taken on behalf of the European Union in the Joint Consultative Working Group established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the adoption of its rules of procedure**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50(2) thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Withdrawal Agreement') was concluded by Council Decision (EU) 2020/135⁽¹⁾ and entered into force on 1 February 2020.
- (2) The Joint Consultative Working Group (the 'working group') was established by Article 15(1) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement ('the Protocol') to serve as a forum for the exchange of information and mutual consultation on the implementation of the Protocol.
- (3) Pursuant to Article 15(2) of the Protocol, the working group is to be composed of representatives of the Union and the United Kingdom and is to carry out its functions under the supervision of the Specialised Committee on issues related to the implementation of the Protocol, established by Article 165(1), point (c), of the Withdrawal Agreement, to which it is to report.
- (4) Pursuant to Article 15(6) of the Protocol, the working group is to adopt its own rules of procedure by mutual consent.
- (5) In view of the purpose and composition of the working group and its relation with the Specialised Committee on issues related to the implementation of the Protocol, the rules of procedure should be similar to the rules of procedure provided for in Annex VIII to the Withdrawal Agreement as regards the Specialised Committees established by Article 165(1) of the Withdrawal Agreement.
- (6) It is therefore appropriate to establish the position to be taken on the Union's behalf in the working group.
- (7) In order to allow for the prompt application of the measures provided for in this Decision, this Decision should enter into force on the date of its adoption,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf in the working group established by Article 15(1) of the Protocol as regards the adoption of the rules of procedure of the working group pursuant to Article 15(6) thereof shall be based on the draft decision of the working group attached to this Decision.

Article 2

The decision of the working group shall be published in the *Official Journal of the European Union*.

⁽¹⁾ Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 23 October 2020.

For the Council
The President
S. SCHULZE

ANNEX

**DECISION NO .../2020 OF THE JOINT CONSULTATIVE WORKING GROUP ESTABLISHED BY
THE AGREEMENT ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND FROM THE EUROPEAN UNION AND THE EUROPEAN ATOMIC
ENERGY COMMUNITY**

of ...

adopting its rules of procedure

THE JOINT CONSULTATIVE WORKING GROUP,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽¹⁾ (the 'Withdrawal Agreement'), and in particular Article 15(6) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement ('the Protocol'),

Whereas:

- (1) Pursuant to Article 15(6) of the Protocol, the Joint Consultative Working Group (the 'working group') is to adopt its own rules of procedure by mutual consent.
- (2) In view of the purpose and composition of the working group and its relation with the Specialised Committee on issues related to the implementation of the Protocol, the rules of procedure of the working group should be similar to the rules of procedure provided for in Annex VIII to the Withdrawal Agreement as regards the Specialised Committees established under Article 165 of the Withdrawal Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The work of the Joint Consultative Working Group established by Article 15(1) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement shall be governed by the rules of procedure set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at ...,

*For the Joint Consultative
Working Group
The Co-chairs*

⁽¹⁾ OJ L 29, 31.1.2020, p. 7.

ANNEX

RULES OF PROCEDURE OF THE JOINT CONSULTATIVE WORKING GROUP

*Rule 1***Chair**

1. The Joint Consultative Working Group (the 'working group') shall be co-chaired by a representative designated by the European Commission and by a representative designated by the Government of the United Kingdom. The European Union and the United Kingdom shall notify each other in writing of the designated representatives.
2. A co-chair who is unable to attend a meeting may be replaced for that meeting by a designated alternate. Alternates designated by the European Commission or by the Government of the United Kingdom shall inform the other co-chair and the Secretariat of the working group in writing of their designation as early as possible.
3. The designated alternate of the co-chair shall exercise the rights of that co-chair to the extent of the designation. Any reference in these Rules of Procedure to the co-chairs shall be understood to include designated alternates.

*Rule 2***Secretariat**

The Secretariat of the working group (the 'Secretariat') shall be composed of an official of the European Commission and an official of the Government of the United Kingdom. The Secretariat shall, under the authority of the co-chairs, perform the tasks conferred on it by these Rules of Procedure.

*Rule 3***Participation in meetings**

1. Before each meeting, the Union and the United Kingdom shall inform each other through the Secretariat of the intended composition of the delegations.
2. Where appropriate and by decision of the co-chairs, experts or other persons who are not members of delegations may be invited to attend meetings of the working group in order to provide information on a particular subject.

*Rule 4***Meetings**

1. The working group shall hold its meetings alternately in Brussels and the United Kingdom, unless the co-chairs decide otherwise.
2. By way of derogation from paragraph 1, the co-chairs may decide that a meeting of the working group be held by videoconference or teleconference.
3. Each meeting of the working group shall be convened by the Secretariat at a date and place decided by the co-chairs. Where either the Union or the United Kingdom has made a request for a meeting, the working group shall endeavour to meet within 15 days of such request. In cases of urgency it shall endeavour to meet sooner.

*Rule 5***Documents**

Written documents exchanged formally within the working group, whether at or in between meetings, shall be numbered and circulated to the Union and the United Kingdom by the Secretariat as documents of the working group.

*Rule 6***Correspondence**

1. The Union and the United Kingdom shall send their correspondence addressed to the working group to the Secretariat. Such correspondence may be sent in any form of written communication, including by electronic mail.
2. The Secretariat shall ensure that correspondence addressed to the working group is forwarded to the co-chairs and is circulated, where appropriate, in accordance with Rule 5.
3. All correspondence from or addressed directly to the co-chairs shall be forwarded to the Secretariat and shall be circulated, where appropriate, in accordance with Rule 5.

*Rule 7***Agenda for the meetings**

1. For each meeting a draft provisional agenda shall be drawn up by the Secretariat. It shall be transmitted, together with the relevant documents, to the co-chairs no later than 5 days before the date of the meeting.
2. The provisional agenda shall include those items, the inclusion of which in the agenda has been requested by the Union or the United Kingdom. Any such request, together with any relevant document, shall be submitted to the Secretariat no later than 7 days before the beginning of the meeting.
3. No later than 3 days before the date of the meeting, the co-chairs shall decide on the provisional agenda for a meeting. They may decide to make that provisional agenda, or any part thereof, public before the beginning of the meeting.
4. The agenda shall be adopted by the working group at the beginning of each meeting. On request by the Union or the United Kingdom an item other than those included in the provisional agenda may be included in the agenda by decision of the working group.
5. The co-chairs may decide to derogate from the time limits specified in paragraphs 1, 2 and 3.

*Rule 8***Minutes**

1. Draft minutes of each meeting shall be drawn up by the Secretariat, within 5 days from the end of the meeting, unless the co-chairs decide otherwise. The Secretariat shall also prepare a summary of the minutes.
2. The minutes shall, as a rule, summarise each item on the agenda, specifying where applicable:
 - (a) the documents submitted to the working group;
 - (b) any statement that one of the co-chairs requested to be entered in the minutes; and
 - (c) operational conclusions adopted on specific items.
3. The minutes shall include a list of the names, titles and capacity of all individuals who attended the meeting.
4. Co-chairs may request the amendment of the draft minutes or summary within 5 days of their circulation by the Secretariat in accordance with paragraph 1. The minutes and summary shall be considered as approved by the co-chairs upon expiry of that period if no amendments were requested. If a co-chair requests an amendment within that period, the minutes and summary shall be considered as approved once the other co-chair has agreed to the requested amendment.
5. Once approved, electronic copies of the minutes shall be signed by the members of the Secretariat and transmitted to the Union and to the United Kingdom, as well as to the Specialised Committee on issues related to the implementation of the Protocol on Ireland / Northern Ireland. The co-chairs may then decide to make the summary of the minutes public.

*Rule 9***Decisions**

1. The decisions of the co-chairs provided for by these rules of procedure shall be taken by mutual consent.
2. In the period between meetings, the co-chairs may take decisions by written communication through an exchange of electronic notes between the co-chairs. The Secretariat shall inform the parties of any such decisions by the co-chairs.

*Rule 10***Confidentiality**

1. Unless otherwise decided by the co-chairs, the meetings of the working group shall be confidential.
2. Where the Union or the United Kingdom submits information considered as confidential or protected from disclosure under its laws and regulations to the working group, the other party shall treat that information received as confidential.

*Rule 11***Working language**

The working language of the working group shall be English. Unless otherwise decided by the co-chairs, the working group shall base its deliberations on documents prepared in English.

*Rule 12***Expenses**

1. The Union and the United Kingdom shall each meet any expenses they incur as a result of participating in the meetings of the working group.
2. Expenditure in connection with the organisation of meetings and reproduction of documents shall be borne by the Union for meetings held in Brussels, and by the United Kingdom for meetings held in the United Kingdom.
3. Expenditure in connection with interpretation to and from the working language of the working group at meetings shall be borne by the party requesting such interpretation.

*Rule 13***Annual report to the Specialised Committee**

1. The Secretariat shall draw up a report on the work of the working group each calendar year. The report shall be drawn up by 1 February of the following year.
 2. Each report shall be adopted and signed by the co-chairs and shall be sent to the Specialised Committee on issues related to the implementation of the Protocol on Ireland / Northern Ireland immediately after the signature.
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Northern Ireland
Assembly

Committee for the Executive Office

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11 November 2020

Dear Michael

FUTURE RELATIONSHIP WITH THE EUROPEAN UNION

Thank you for your response to my letter dated 10 July 2020, inviting you to attend a Committee for the Executive Office meeting to update Members on negotiations on the future relationship with the European Union; engagement with the devolved administrations; and plans for the implementation of the Protocol on Ireland/Northern Ireland (Protocol).

The Committee considered your response at its meeting on 11 November 2020, and noted that while you are not in a position to give evidence on the work of the Northern Ireland Executive, you would be happy to provide written evidence on issues related to the future relationship with the European Union.

The Committee agreed to request written evidence on the following themes:

- **Governance of the Withdrawal Agreement post-transition:** The Committee welcomes the [commitment](#) you gave to the Chairperson of the House of Lords European Union Committee, that officials will work with Parliamentary scrutiny committees, and the Northern Ireland Executive and the Assembly as the overall governance process for the Withdrawal Agreement and Protocol post-transition period is being designed. The Committee would therefore appreciate clarity on the mechanisms that are being considered to allow for transparency and

scrutiny of the work of the Withdrawal Agreement Joint Committee, the Specialised Committee on the Protocol and the Joint Consultative Working Group from 1 January 2021 onwards.

- **Joint Consultative Working Group:** The Committee believes that the Joint Consultative Working Group is an extremely important structure for the exchange of information and mutual consultation between the UK and the EU and has expressed some concern that the Group has not yet met. The Committee would therefore appreciate confirmation of when the group will meet, details of its composition including whether membership will be static or rotational, and, details of the planned dedicated session on Article 2 of the Protocol.
- **Dynamic alignment with the Protocol:** There is significant uncertainty around how dynamic alignment will work in practice in relation to the EU Directives listed in Annex 1 to the Protocol. The Committee would therefore appreciate information on the process that will be implemented to monitor changes to the relevant Directives and the means of scrutiny.
- **Influencing EU policy:** Having the ability to influence EU policy which will apply to Northern Ireland is vital. The Committee would therefore appreciate detailed information on how the UK Government will seek to influence EU policy that will apply to Northern Ireland under the Protocol and how any proposals/policy changes will be monitored and communicated.
- **Common Frameworks:** It is unclear how the common frameworks process will provide for the special and specific circumstances of Northern Ireland with respect to adherence to the Protocol and potential conflict with intra UK common frameworks. The Committee would therefore appreciate clarity on this issue, information on how common frameworks will be reviewed following implementation, and, an outline of the opportunities for parliamentary scrutiny.
- **Treaty and trade negotiations:** The Committee acknowledges that treaty-making is a reserved competence, however it recognises that devolved administrations are responsible for implementing treaty obligations in areas of devolved competence. Information would therefore be appreciated on how compliance with the Protocol will be ensured and the mechanisms that will be put in place to consult devolved administrations and allow them to influence treaty or trade negotiations which touch on devolved competences.
- **Inter- Governmental Relations (IGR):** The Committee notes that your [letter](#) to Mr Mike Russell MSP, dated 15 July 2020, referred to “restarting” work on the review of IGR, and in a similar [letter](#) of the same date to Jeremy Miles MS, you said that you hoped “to accelerate this over the summer.” The Committee would therefore appreciate the timeline for publishing both the Dunlop report and the outcome of the review of IGR commissioned by the Joint Committee. The Committee would also be interested to hear your views on the calls from the House of Lords for Government to consult /seek consent from the devolved administrations in relation to the exercise of powers in the UKIMB, and your assessment of how important inter-governmental relations will be in relation to the implementation of the provisions contained in the UKIMB.

Committee for the Executive Office

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I should be grateful for a response at your earliest convenience.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Colin McGrath'.

Colin McGrath MLA
Chairperson, Committee for the Executive Office