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Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
Cabinet Office
70 Whitehall
London
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17 June 2020

Dear Michael

In our joint statement of 14 June, which expressed disappointment in your decision not to request an extension to transition before we had an opportunity to discuss this crucial matter ahead of the high level political stocktake, we said that we would write to you on the subject of 'rebooting' the process of engagement between the UK and Devolved Governments on the EU-UK negotiations. This letter sets out our thinking on this important subject.

We have, in the meantime, received your letter of 14 June responding to our statement. As you acknowledged, we have different views on the way forward and our governments are not going to agree on the core fundamental positions with regard to the EU-UK future relationship. To our mind, this is all the more reason for us to re-double our efforts to work together for the benefit of business and communities in all parts of the United Kingdom, particularly as the option of an extension will no longer be open to the UK after the end of this month.

It was because of the immutability of that deadline within the Withdrawal Agreement that we were so disappointed that the final decision was taken in advance of the meeting. While we have had the opportunity to register our views on this issue on several occasions, we would point out the difference between the quantity of meetings and other contacts between our administrations, and the quality of the engagement.

That is why we remain so dissatisfied with the engagement and why we believed – and still believe – that your approach to this issue failed to respect the position of the devolved governments. The final straw was the fact that you choose to tweet your decision despite a letter on the matter sent that very morning to the Prime Minister by the First Ministers of our respective countries. None the less we remain committed to try and move things forward.



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A positive step in terms of making our discussions more meaningful would be for us all to reaffirm the terms of the reference of the Joint Ministerial Committee (European Negotiations). Whilst respecting reserved and devolved responsibilities, we should use the committee to seek to agree the UK approach, and to have collective oversight of the negotiations. We would propose that the JMC (EN) should meet virtually with yourself in the Chair at points in advance of key decisions being taken, whether in UK Cabinet, XS meetings or elsewhere, presumably in mid-July and again at one or two key decision points in the summer. The agenda for these discussion should focus on the high level strategic choices facing the UK Government and how these might impact the Devolved Governments.

Beyond this, improved working relations could be embedded by the following:

- There should be a schedule of meetings over the July and August negotiation period, based on the addendum to the terms of reference to the negotiations published last week.
- Meetings, including the JMC (EN)s referred to above, should be timed so as to deliver meaningful engagement before and after each of the scheduled negotiating sessions.
- These meetings would be more productive if supported by an advanced agenda of issues that the talks will consider in each week, together with more transparency about the UK Government's approach.
- At each of these meetings we would be seeking opportunity to input to the development of the UK Government negotiating position, drawing on specific expertise in our administrations relevant to the negotiating strands which are taking place. We would expect JMC (EN) to receive a report of the extent to which the position taken by the UK Government was influenced by our input.
- After the negotiation sessions, we assume the meetings would be principally readout sessions, led by Task Force Europe.

While we have appreciated the way in which the Paymaster General has sought to be an 'honest broker', it seems to us that as a general rule these readout sessions should as a default occur at the level of officials where they may benefit from simpler coordination arrangements and greater technical detail. If important issues need to be resolved and there is insufficient time to arrange a JMC (EN), then we could revert to a Ministerial format.

We understand that it was confirmed at official level last week that a working group on the NI protocol with the Devolved Governments will be established, meeting a commitment to starting a joint workstream agreed at the January 2020 JMC(EN). We would like to request this is established as a matter of urgency, and as a show of good faith in re-setting relations. We also request confirmation that in the negotiations on participation in EU Programmes, the UK Government will respect the devolution settlement by asking for, where appropriate, the option for devolved administrations to continue participating even where you have decided on behalf of England not to do so. We will continue to provide additional policy specific positions of the our devolved governments through our usual channels.

We trust that we can move to a new footing in our relations over the important coming months of UK-EU negotiations. We also look forward to constructive joint working in the related area of domestic readiness.

We are copying this letter to the First Minister and deputy First Minister of Northern Ireland, and to the Paymaster General.



Jeremy Miles AS/MS



Michael Russell MSP