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Clare Adamson MSP
Convener
Constitution, Europe, External Affairs and Culture
Committee

02 April 2024

Dear Clare,

In August last year I took the decision to agree to the publication of the UK Government's Border Target Operating Model, which will deliver a new regime for imported goods entering Great Britain.

The model illustrates the harsh realities of Brexit and is something I would have rather not had to implement, however, bringing in border controls on imported goods is a necessity resulting from the UK no longer being an EU member. The requirement for this has only been strengthened, given the UK Government chose not to pragmatically align standards by negotiating a comprehensive veterinary agreement with the EU. This is something I continue to press the UK Government to pursue.

While we anticipate that some elements of the regime – such as checks on goods entering Scottish ports from the island of Ireland – will not come into force until next spring, due to a variety of UK Government delays and decisions, the Scottish Government remains committed to delivering the model to ensure appropriate biosecurity protections and provide desperately needed and long overdue clarity to businesses.

Developing the Border Target Operating model has been challenging, not least because of extremely disappointing UK Government handling. The Scottish Government has been excluded from key discussions, given crucial information late, faced with UK Government policy U-turns, and been asked to take last minute decisions. For years now I have been given assurances from multiple UK Government Ministers that they will work collegiately with us on the model and that devolution will be respected in the process. These assurances have not materialised.

I am therefore beyond frustrated that we have not seen progress on outstanding policy matters and we have not seen any sign of respect for Scotland's devolved responsibilities and institutions by the UK Government.

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Alongside outstanding policy issues, there is a complex and extensive programme of secondary legislation required to underpin the borders regime, including instruments already considered by the Scottish Parliament and others we are expecting in short order. The UK Government's handling of this has been exceptionally poor. My officials are often being sighted on instruments late and pressured to pursue consent when instruments are still in development. Timelines are restrictive and there is no clarity on how instruments knit together. In this context I am acutely aware that my officials have not always been able to adhere to the Protocol with the Scottish Parliament for such legislation. The Scottish Parliament is often being asked to expedite scrutiny of legislation and to consider SIs on a piecemeal basis.

I'm sure you would agree that this is entirely unacceptable. I have raised these issues a number of times with UK Government Ministers, most recently in a letter to the Baroness Neville-Rolfe, of the Cabinet Office, as has Mr Farlie to Defra's Lord Douglas-Miller.

You will appreciate this is a situation of some challenge. The border controls in question have already been subject to several delays by the UK Government. Additional delays would simply pose further risk to our collective biosecurity and create even more uncertainty for industry. It would therefore be irresponsible of me to risk a further delay to this model. Yet it is at the same time fundamental that both Scottish Ministers and the Scottish Parliament can appropriately scrutinise legislation as it comes forward.

My officials and I are pressing for clarity on a full and comprehensive legislative programme, with clear and workable timelines, at the earliest opportunity. As we do so, I am grateful for your efforts, and those of committee members, to rapidly and pragmatically consider instruments as they come, enabling us to implement this important regime.

I have also written to Rural Affairs and Islands Convener and Delegated Powers and Law Reform Convener. I am copying this letter to Minister for Parliamentary Business.

Yours sincerely,



Mairi Gougeon

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