



The Scottish Parliament
Pàrlamaid na h-Alba

Finance and Constitution Committee

Minister for UK Negotiations on
Scotland's Place in Europe

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Dear Michael,

Thank you for your recent evidence to the Committee on 28 June. As you are aware, the Committee has taken evidence recently on the issue of legislative consent in relation to the European Union (Notification of Withdrawal) Bill and the concepts of a UK internal market and UK common frameworks, and the potential implications of these concepts for the devolution settlement.

Separately, the European Union (Withdrawal) Bill received its First Reading in the House of Commons on Thursday 13 July 2017. The Committee will shortly publish a call for evidence on the Bill and on the expected legislative consent memorandum.

There are a number of areas where the Committee would welcome additional information from the Scottish Government following your evidence on 28 June. This information will assist the Committee in its scrutiny of the European Union (Withdrawal) Bill and in deciding what further evidence it would wish to have from the Scottish and UK Governments about the impact of the UK's withdrawal from the EU on the devolution settlement.

Firstly, much of the Brexit-related legislation is expected to be secondary legislation. The Committee heard evidence that the Sewel Convention has not been treated as being formally engaged by the making of secondary legislation. However, the Committee heard views that there are alternative mechanisms which could be used to ensure that any secondary legislation made by the UK Government in relation to Brexit that has implications for the devolution settlement would require the consent of the Scottish Parliament. Professor Tierney highlighted the powers in Schedule 7 of the Scotland Act 1998 as a possible mechanism. In addition, you noted in evidence to the Committee a procedure created by the Public Bodies Act 2011.

The Committee would welcome a more detailed statement of the Scottish Government's views on the mechanisms which could provide a means of ensuring that the Scottish Parliament's consent is required for the making of UK secondary legislation which impacts upon devolved responsibilities. In addition, the Committee would welcome information on the Scottish Government's views on the appropriateness of these mechanisms.

Secondly, the Committee would welcome further information from the Scottish Government on the approach proposed in the Bill for repatriating powers which are currently competences of the European Union and the implications of this approach for the devolution settlement in Scotland. It would also be useful to receive further information in relation to whether common frameworks may be required and, if so, how these should be governed, and effective ways to manage the broader intergovernmental relationships after Brexit. We would also welcome an update on the formal and informal discussions the Scottish Government has had on these issues with the UK Government.

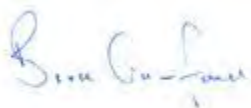
Thirdly, the Committee would also appreciate further information on the position of the Scottish Government with regard to the intergovernmental structures which in its view should underpin the Brexit process, with respect to the process of withdrawal, as well as deliberation, agreement and governance of UK 'common frameworks'.

We note the letter sent jointly by you and the Welsh Cabinet Secretary for Finance, Mark Drakeford, on 15 June on the practical steps that could be taken to improve intergovernmental coordination, including the resumption of the JMC (EN), with a forward programme of regular meetings. We also note the joint letter of the Scottish and Welsh First Ministers requesting a meeting of the JMC Plenary. We would welcome an update on any response received to these requests, and of plans for intergovernmental discussion going forward.

We also note that the Explanatory Notes accompanying the European Union (Withdrawal) Bill included a commitment by the UK Government to begin intergovernmental discussion, led by the First Secretary of State, Damian Green, on UK common frameworks immediately after the Bill's introduction. We would welcome an update on the Scottish Government's position on, and participation in, such discussions.

Finally, the Committee has noted the contribution of the Welsh Government in its paper on Brexit and Devolution. This included some consideration of where there may be a need for 'shared governance frameworks', and how these and other intergovernmental interdependencies can be overseen by the governments working cooperatively. The Committee has also heard evidence from witnesses on intergovernmental structures that operate in other European countries notably Belgium, Germany and Spain.

Yours sincerely,



Bruce Crawford MSP
Convener