Dear Michael,

FUTURE RELATIONSHIP NEGOTIATIONS

Thank you for the evidence you provided to the Committee last week. As the future relationship negotiations enter a critical phase it will be imperative that there is an open dialogue about the compromises that will be necessary to achieve an agreed outcome both within the UK and between the UK and EU. I am writing on behalf of a majority of Committee members.¹

During your evidence session, you provided your perspective on inter-governmental relations with regard to the Brexit process. Your understanding of intergovernmental relations appears to have been closer to a consultation of stakeholders as opposed to the collaborative approach set out in the jointly agreed remit of the JMC-EN between the UK Government and the Devolved Governments. The UK Government has not provided, at any stage of the Article 50 process or the future relationship negotiations, the Devolved Governments with sight of the UK Government’s proposed negotiating position or texts in sufficient time to allow for substantive discussion of the UK Government’s position.

The Committee considers it important to re-iterate that the UK Government is adopting negotiating positions in relation to devolved competences. Accordingly, the approach of the UK Government fails to meet the jointly agreed remit of the JMC-EN.

The Committee notes that the Scottish and Welsh Governments have recently proposed a range of measures which could be taken to ‘re-boot’ the role of the JMC-EN. The Committee considers that as the future relationship negotiations intensify in the coming months it is imperative that the JMC-EN begins to function in line with the agreed remit for the JMC-EN. You stated in evidence that—

¹ Gordon Lindhurst MSP and Oliver Mundell MSP are not signatories to this letter.
“from time to time, of course our judgment about what might be in the interests of the whole UK differs from that of, for example, the Scottish or Welsh Governments, because party traditions and the political philosophies of politicians, although it is always good if they overlap, will inevitably diverge in some circumstances”.

It would seem axiomatic that the purpose of inter-governmental mechanisms is to help reach an accommodation between differing political positions. The fact that the review of inter-governmental relations, for which you are now responsible, has been on-going since March 2018, underscores the lack of progress that has been made in putting in place an effective structure of inter-governmental relations in the UK.

The Committee is aware of numerous reports by parliamentary committees from all the UK legislatures which have highlighted the inadequate nature of inter-governmental structures in the UK. The Brexit process undoubtedly adds to the complexity of the territorial relationships in these islands and, in order to be implemented, will require significant inter-governmental co-operation. Accordingly, the structures which have existed in the UK to date will be insufficient to deal with the changing territorial and constitutional relationships necessitated by the Brexit process. The need for reform of inter-governmental relations is now critical.

In evidence to the Committee, you emphasised the need for “private discussion” in inter-governmental negotiations. However, this should not preclude accountability to parliaments across the UK. In this regard, the Committee welcomes the approach taken by the European Commission to keep the relevant structures within the European Parliament fully appraised of the state of the Brexit negotiations at every stage in the process. This stands in marked contrast to the approach taken by the UK Government in relation to legislatures in the UK throughout the Brexit process. The Committee suggests that the UK Government should put in place a similar approach to the one taken by the EU Institutions on the Brexit process.

The Committee welcomes your engagement with the Committee. As I said at the conclusion of your evidence session last week, the Committee looks forward to taking evidence from you later in the year to assess whether any progress has been made in the future relationship negotiations, which are, of course, of critical importance to Scotland.

Yours sincerely,

Joan McAlpine MSP
Convener, Culture, Tourism, Europe and External Affairs Committee