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Edward Mountain MSP/Convener
Rural Economy and Connectivity Committee
The Scottish Parliament
Edinburgh
EH99 1SP

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Dear Edward,

Thank you for your letter of 30 May 2019 seeking further information following evidence to the committee regarding the UK's withdrawal from the EU.

As you will be aware the Scottish Government remains committed to continue to work collaboratively on developing common frameworks in specific policy areas, in line with the framework principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017. The Scottish Government is clear that these arrangements, in whatever form they take, must not alter or constrain devolution in any way and must not prevent the Scottish Parliament from making alternative arrangements in these areas should they judge that to be necessary in the future.

There are ten frameworks across the Rural Economy and Connectivity portfolio. Discussions have taken place at official level, all on a without prejudice basis. The current position for each framework and interim arrangements is outlined in Annex A.

The guidance provided to policy teams makes it clear that the timings set out for the phased approach to frameworks development are indicative, set out in more detail at Annex B. The first phase took place between October 2017 and March 2018 and focused on determining whether common frameworks may be required in different policy areas and the high level purposes using the principles agreed by JMC (EN). The overarching planning assumption across administrations has been that any required common frameworks would be in place by the end of any implementation period, if agreed.

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The intention is to provide sufficient flexibility for policy teams in different areas to move through Phases 2 – 5 at different speeds depending on the dependencies and circumstances of particular policy areas.

While the process is being managed through clear and agreed project management disciplines, in reality the development of frameworks is emerging as a complex ongoing intergovernmental process with significant impacts and interdependencies, including the outcome of negotiations with the EU.

Planning for No Deal has impacted on the pace with which discussions on long term frameworks have been moved forward. While the risk of a No Deal EU Exit has been delayed by the agreement reached at the European Council on 10 April to extend the Article 50 period until 31 October 2019, planning for No Deal (and other possible outcomes) will continue. For example, to prepare for the risk of a No Deal exit, officials have been working with counterparts in the other administrations to develop interim working level arrangements where these are required. In a number of policy areas, existing arrangements are fit for purpose or only require modest modification. These arrangements will be temporary, pending the agreement of long term common frameworks. Further detail is provided in Annex A.

With regard to the stakeholder engagement, the Scottish Government will develop proposals for both separate and joint engagement with officials from all four administrations as agreed by the UK Frameworks Project Board. It is intended to roll this out over the next few months to inform stakeholders about frameworks, allow their input into the development process and increase transparency.

Engagement is proposed on 3 levels:

- to raise general awareness with umbrella organisations whose members will have an interest in the process and progress of frameworks;
- proactive parliamentary engagement at Westminster and in the devolved legislatures to inform both clerks and elected representatives about frameworks, including key milestones and the progress being made; and
- technical engagement by policy teams with sector specific stakeholders, including parliamentary committees, on the detail of individual frameworks.

With regard to how the Scottish Government intends to engage meaningfully with the Scottish Parliament on each these proposed common frameworks, as set out in our response to the Finance and Constitution Committee's report on Common Frameworks, the Scottish Government recognises the crucial role parliamentary scrutiny will play in the development, implementation and oversight of any future common frameworks. The Scottish Government is committed to work with the Parliament to develop a suitable scrutiny procedure and would welcome the views of the parliamentary committees, drawing on their experience of the current existing examples of agreed processes, such as:

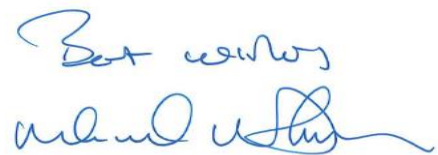
- the protocol agreed between the Scottish Government and the Scottish Parliament to ensure adequate scrutiny of the large number of statutory instruments required to ensure a functioning statute book on EU exit¹;
- the written agreement between the Scottish Parliament and Scottish Government on inter-governmental relations²: and existing processes for parliamentary scrutiny of concordats, MOUs and similar agreements.

We hope this information is useful for the Committee. Officials would be happy to meet with the clerks to your Committee to consider the nature and timing of engagement with the Scottish Parliament and to address any further questions.

Yours sincerely,



Fergus Ewing



Michael Matheson

¹ http://www.parliament.scot/S5_Delegated_Powers/20180911CabSec.pdf

² http://www.parliament.scot/20160309_IGR_Agreement3.pdf

REC-RELATED COMMON FRAMEWORKS

On 9 March 2018, the UK Government published a provisional breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland, which was then updated on 4 April 2019. According to that revised assessment, overall, there are a total of 160 policy areas that intersect with devolved competence in Scotland.

The following table sets out details for the REC-related common frameworks.

Policy Area	Framework	Interim Arrangements
Agricultural Support including farm and rural payments and market support	Since summer 2018 work on the framework has been very limited. Within the policy area covered by this framework there is a serious and unresolved difference of views, because Defra's Agriculture Bill, includes clauses which the UK government has, unilaterally and wrongly in our view, declared to be reserved.	An Interim Working Agreement is well-developed, setting out working arrangements between the parties for the administration of the retained Common Agricultural Policy (CAP) regulations where we believe coordination may be useful in a "no deal" EU Exit.
Geographical Indications Schemes	Official-level discussions have produced firm proposals which can be taken to the next stages of the frameworks process soon.	Draft Agreement is styled as an "Interim Working Level Agreement", and includes an annual review mechanism.
Organics	A final draft Working Level Agreement is being considered by Defra and the Devolved Administrations.	This is an interim Working Level Agreement.
Plant Breeder's Right, Plant Variety Registration and the Marketing of Seeds and Plant Propagating Material	Administrations already work closely together in this policy area, with Primary legislation already providing for joint working. All ToRs, protocols and procedures have been updated, and should be able to form the	Currently operating as an Interim Working Level Agreement.

	basis in due course of an agreed framework.	
Plant Health	A UK-wide plant health governance structure has been in place for many years and this has helped ensure good progress with development of the interim working level agreement which should be able to form the basis of an agreed framework. A new governance structure is taking shape but further development is needed in some areas including dispute resolution.	Currently operating as an Interim Working Level Agreement.
Animal Health and Welfare	The framework is at an early stage with no significant developments since 2018 as administrations' resources were focused on day 1 critical projects.	Discussions in place regarding Interim Working Level Agreement.
Fertilisers	There have been a number of meetings between the various administrations and relevant regulators since January 2018 to agree an approach to the future regulation of Chemicals and Pesticides, which will include fertilisers, in the UK. Good progress has been made.	A final draft of the Interim Working Level Agreement is being considered.
Fisheries Management	The Fisheries Bill has been introduced into the UK Parliament containing provision for a joint fisheries statement and joint regulations, however	A variety of working level agreements are being developed. At this stage, focus is on establishing satisfactory long-term arrangements.

	<p>it is currently stalled. Work is also starting on a joint MoU to cover non-legislative areas, but is at an early stage due to the need for a focus on no deal planning.</p>	
<p>Intelligent Transport Systems (ITS)</p>	<p>ITS is an area currently governed by EU Law (Directive 2010/40 and associated Regulations). The Directive and Regulations contain a mix of reserved and devolved competences, where the promotion of road safety and the management of public road network are areas of devolved competence for Scotland.</p> <p>The Scottish Government expects a new UK SI towards the end of 2019 which will revoke the ITS EU Regulations. The Scottish Parliament will be engaged in this process through the consent protocol.</p> <p>A Common Framework will be required to operate UK-wide harmonised rules. The Department for Transport has consulted on administrative measures to take the place of the revoked regulations.</p>	<p>No interim arrangements are required at this stage as the ITS EU Regulations have not been revoked.</p>
<p>Chemicals (including Pesticides) [to note that the pesticides elements of this framework make up part of the Rural Economy Portfolio and the other chemicals regimes are part of the Environment Portfolio.]</p>	<p>There have been a number of meetings between the various administrations and relevant regulators since January 2018 to agree an approach to the future regulation of Chemicals and Pesticides in the UK. Good progress has been made.</p>	<p>A final draft of the Interim Working Level Agreement is in circulation between Defra and the DAs. It is subject to change depending on further clarity on the terms of EU exit and the future relationship with the EU.</p>

Common Frameworks development - the 5 phase approach

PHASE 1 took place between October 2017 and March 2018 and focused on establishing the principles and proof of concept for this programme of joint work between the UK Government and Devolved Administrations.

PHASE 2 from April 2018 onwards, focused on detailed policy development. The final stage of this phase of work is to sight UKG-DA policy Ministers on framework outlines.

PHASE 3 is intended to provide a period of review, consultation and more detailed policy development up to and beyond March 2019. It has been broken down into the following workstreams.

Workstream 1: Further Policy Development

Workstream 2: Stakeholder Engagement

Policy teams will test initial outputs through informal multilateral stakeholder engagement in

Workstream 3: Seeking Agreement

PHASE 4 will cover preparation and implementation of final framework proposals, from March 2019 onwards. Work will include preparing the implementing legislation and non-legislative elements of individual

PHASE 5 will comprise any post-implementation arrangements from December 2020 onwards.

Timings for the phased approach are indicative.

	2017	2018	2019	2020
PHASE 1 of multilateral engagement on common frameworks - focused on establishing the principles and proof of concept for this programme of joint work between the UK Government and Devolved Administrations	Oct. 17 - Mar. 18			
PHASE 2 - focused on detailed policy development		running from April 2018 onwards		
PHASE 3 is intended to provide a period of review, consultation and more detailed policy development			up to and beyond March 2019	
PHASE 4 covers preparation and implementation of final framework proposals			from March 2019 onward	
PHASE 5 will comprise any post-implementation arrangements . Final frameworks themselves will go live, alongside any arrangements for review.				from Dec 2020 onwards