

Mark Drakeford AM/AC
Ysgrifennydd y Cabinet dros Gyllid
Cabinet Secretary for Finance



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair, External Affairs and Additional Legislation Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

10 August 2018

Dear David,

Thank you for your letter regarding the inquiry of the External Affairs and Additional Legislation Committee into “European Union Law in Wales: What happens during the Brexit transition?”, particularly the principles you have developed regarding, firstly, the legal mechanism for maintaining EU law and, secondly, for inter-governmental relations relating to the EU, both during the transition period.

On the first principle, as stated in the White Paper on the EU (Withdrawal Agreement) Bill, while the European Communities Act 1972 (“the ECA”) will be repealed by the EU (Withdrawal) Act 2018, the intention is for EU law to continue to apply in the UK during the transition period. This is to be achieved by the EU (Withdrawal Agreement) Bill saving the effect of the ECA during the transition period. However, the effect of the ECA is to be saved selectively to reflect the fact that the UK will no longer be a Member State of the EU during the transition period.

My officials are in discussion with DEXEU officials on the details of this provision but our expectation remains that there will be a high degree of similarity between the application of EU law in the UK both now and during the transition period and that this would include the roles of the National Assembly for Wales and the Welsh Government. There are currently several options for implementing EU law in Wales, through both legislative and executive competence, and we expect that all existing mechanisms for the implementation of EU law for the purpose of the Withdrawal Agreement will remain available during any transition period.

This is without prejudice to separate discussions both on the need for common frameworks, to be implemented under the procedures set out in the Intergovernmental Agreement between the Welsh Government and the UK Government and which would be subject to the agreement of the National Assembly, and on primary legislation related to EU exit. We would anticipate that most, if not all, of these frameworks would apply only after the transition period has ended.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Regarding your second principle, and building on my letter to you in June, it is certainly our ambition that there should be no diminution of our appropriate participation in the UK representation to the EU during the transition period. The precise nature of that is still to be determined, but we have raised, with the UK Government, the matter of our participation in the Joint Committee and we will continue to argue for that and for appropriate participation in any other areas of interaction with the EU, for example in the negotiations on the future economic partnership.

As I highlighted in June, this draws on the approach set out in the Concordat on Co-ordination of European Union Policy Issues, within the Memorandum of Understanding on Devolution, regarding the attendance at Council of Ministers meetings by Ministers of the Devolved Administrations, as strengthened by an amendment in 2013 agreed between the UK Government and the Devolved Administrations.

I am grateful for the copies of your letters to the Chairs of the Committees in the Commons and the Lords and for your Committee's continuing work in ensuring that the implications of EU exit are properly addressed and that preparations are made so that the interests of Wales, and the devolution settlement, are protected.

Best wishes,

A handwritten signature in black ink that reads "Mark". The letters are cursive and slightly slanted to the right.

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