



Ein cyf/Our ref: MA-L-/LG/0047/19

Mick Antoniw AM
Chair,
Constitutional and Legislative Affairs Committee
Mick.Antoniw@assembly.wales

18 February 2019

Dear Mick,

I thought it pertinent to outline the approach Welsh Ministers have decided to take in response to the UK Government laying of the State Aid (Agriculture and Fisheries) (Amendment) (EU Exit) Regulations 2019 in Parliament on 12 February 2019.

The 2019 Regulations, together with the State Aid (EU Exit) Regulations 2019 laid before Parliament on the 29 January, rollover existing Agricultural and Fisheries EU Block Exemption and De Minimis regulations into domestic law. This is to ensure agriculture and fisheries funding can continue. The Department for Business, Energy and Industrial Strategy is rolling over the State Aid Framework, the General Block Exemption Regulation ("GBER") and the Industrial De Minimis Regulation.

The Regulations and a supporting Memorandum of Understanding (MoU) are an important step in ensuring dynamic alignment between the UK and the EU on State aid. Welsh Ministers are pleased that regulations will secure and maintain the confidence of our EU partners, facilitate a dynamic alignment with EU State aid rules, and will enable cross-UK alignment, which in turn will form an important cornerstone of our future relationship with the European Union.

The Welsh Government's position is that State aid is a devolved matter and not a reserved matter under any heading of the Reserved Matters Schedule in the Government of Wales Act 2006. However, the UK Government does not consider it as such (as was noted in the Intergovernmental Agreement) and therefore it has not requested Welsh Ministerial consent). The Welsh Government has requested from the UK Government an explanation of its legal position but there has been no response.

The Minister for Environment, Energy and Rural Affairs has written to the Parliamentary Under Secretary of State for Food and Animal Welfare to reiterate our position that it is not acceptable for UK Government Ministers to take unilateral decisions on matters which have a direct effect upon areas of devolved competency. Understanding the importance and time constraints of ensuring that these regulations are laid and in force by the time the UK leaves the European Union, it is vital that the long-term UK State aid regime is one which is developed, altered and owned by the UK Government and Devolved Administrations jointly.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
PSCGBM@gov.wales / YPCCGB@llyw.cymru

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.

Discussions are ongoing between Defra and Welsh Government officials to consider implementation. Despite this, Welsh Ministers are disappointed that the regulations as they have been laid do not provide for decision making by mutual consent and do not provide for a State aid regime that is truly owned by all four Governments in the UK.

It is possible for the Welsh Government to agree with the UK Government that a fully functioning UK wide State aid regime is desirable, and indeed necessary to ensure full and unfettered access to the single market, without agreeing to relinquish all statutory control over the State aid rules going forward to the UK Government. Consequently, Welsh Ministers do not plan to grant unilateral consent for this Statutory Instrument.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J Miles', with a stylized, cursive script.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit

Counsel General and Brexit Minister