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Bruce Crawford
Convever
Finance & Constitution Committee
Scottish Parliament
Edinburgh
EH99 1SP

13 November 2018

Dear Bruce

The EU (Withdrawal) Act requires the UKG to report to the UK Parliament on common frameworks and the use of section 12 powers every 3 months. The UKG is also under a duty to share this report so as “to ensure the same levels of devolved scrutiny”.

Please find attached a link to the copy of the first report for the period 26/06/18 to 25/09/18, which is to be published today, Tuesday 13 November:

<https://www.gov.uk/government/publications/the-european-union-withdrawal-act-and-common-frameworks-report>

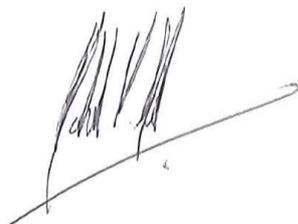
The report:

- Sets out the background about the approach to implementation of frameworks, based on a re-statement of the agreed JMC(EN) principles
- Restates the UKG rationale underpinning the list of 153 published in March and information about discussions thereafter, focussing on the 24 ‘legislative’ areas, and referencing the joint statement on agricultural support agreed between Wales and UKG on an agriculture framework (issued when the Agriculture Bill was published in September)
- Provides a technical description of the operation of section 12, including the intergovernmental agreement with Wales.

I would draw the Committee’s attention to the statement in the report that on the basis of the significant joint progress on future frameworks, and the continued collaboration to ensure the statue book is ready for exit day, the UK Government has concluded that it does not need to bring forward any section 12 regulations at this juncture. On this basis, the Scottish and Welsh Governments continue to commit to not diverging in ways that would cut across future frameworks, where it has been agreed they are necessary or where discussion continue.

This statement has been agreed by the Scottish Government. However the report goes onto say in paragraph 2.17 that the 'freezing' powers provide a mechanism to give certainty across those areas where common rules do need to be maintained by ensuring that there will not be substantive policy changes in different parts of the UK until those future arrangements are in place. The Scottish Government takes the view that section 12 regulations would have the opposite effect, since we will not agree frameworks where any such regulations are made. In our view what will give certainty is the commitment of governments to proceed by agreement, including to respect devolved competence and the Scottish Government remains, as we have throughout, to continuing to work collaboratively in these areas. For the avoidance of doubt the Scottish Government remains resolutely opposed to section 12.

The report again highlights the underlying issue of consent which we acknowledge and which you identified in your letter of 1 November 2018 with respect to the publication of the Committee's report on the Trade Bill LCM. I have of course set out already a range of proposals which I consider could resolve the current situation but I will provide a detailed response by your deadline of 28 November.



MICHAEL RUSSELL

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