Rt Hon Hilary Benn MP
Chair, Committee on the Future Relationship
with the European Union
House of Commons
SW1A 0AA

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[signature] Per MG

7th   October 2020

Thank you for your letters of 23 September regarding the Withdrawal Agreement Joint Committee (WAJC), and 24 September regarding the 'Check an HGV is ready to cross the border' service (formerly 'Smart Freight' Service) and the Goods Vehicle Movement Service (GVMS). I hope you find the information below helpful and look forward to appearing in front of your Committee. Thank you also for accommodating my diary pressures. Please also consider this a reply to your letter of 17 September.

Regarding the WAJC, the Government has published Written Ministerial Statements after each meeting. As you will know, however, the Government is bound by Treaty obligations with respect to discussions in the WAJC and the Specialised Committees, in particular Rule 10 of Annex VIII of the Withdrawal Agreement. Dates for future WAJC meetings have not yet been finalised, but we will keep your Committee updated as they are scheduled. Both the UK and EU are committed to concluding necessary Decisions.

Regarding Northern Ireland, and in particular the definition of goods 'at risk' under Article 5 of the Protocol, technical discussions are ongoing and we aim to conclude the matter as quickly as possible and by the end of the transition period. The UK Government has committed to providing full operational guidance to businesses on WAJC decisions regarding Northern Ireland, as soon as they are adopted, along with Explanatory Memoranda. The Government has also committed to introducing safety net provisions which would apply in the unlikely event that the WAJC is unable to agree on the question of reachback of state aid provisions to Great Britain, to remove the requirement for export declarations on goods moving from Northern Ireland to Great Britain, and to agree on goods considered 'at risk'.

Regarding differences with the EU on 'putting the Protocol...into operation', it is for the EU to explain their position and whether they agree with the approach the UK Government set out in the Command Paper, published in May 2020. The Government's approach is centred on our determination to ensure that the progress the people of Northern Ireland have made in the 22

years since the Belfast (Good Friday) Agreement is secured into the future. We have sought to resolve differences through regular and constructive engagement at official and political level.

Regarding goods moving from Great Britain to Northern Ireland, the UK's position was set out in the Command Paper of 20 May, and supplemented by detailed operational guidance published on 7 August concerning the new administrative processes for traders. Our position remains that there should be no tariffs on internal UK trade, and that in any case full use will be made of waivers and reimbursements to minimise impact on business in any scenario. The Government is in technical discussion with the EU on workable, operational ways to identify 'at risk' goods. The Government's Business Engagement Forum is meeting regularly, and the new Trader Support Service will help businesses provide all the information they need to submit for relevant administrative processes. It will be free to use for businesses. As above, it is for the EU to set out their position. We are firmly committed to a practical solution that works for businesses and minimises the impact on the people of Northern Ireland. In terms of the operational responsibility, the administration will be by UK authorities, who will be able to exercise discretion, including with regard to the risk assessment of goods. The UK Government also recognises the unique position of authorised traders, such as supermarkets, with stable supply chains, and comprehensive oversight of warehousing and distribution operations, moving pre-packaged products for retail sale solely in Northern Ireland. We are pursuing specific solutions for this trade, and will provide further guidance.

Regarding the movement of food and agrifood from Great Britain to Northern Ireland, it has been clear since the publication of the Command Paper that there will be no new customs infrastructure. There will be a proportionate expansion by the Northern Ireland Executive of agri-food facilities at existing Northern Ireland ports, building on what already happens at ports like Belfast and Larne. The Government is committed to exploring further support to agri-food businesses engaging with new SPS processes, with further detail to be set out in due course, to bringing down the level of checks to a proportionate and pragmatic level that recognises the high standards across the UK, and to minimising electronic documentary requirements.

Regarding guidance and business preparedness, we published detailed guidance for business on 7 August. We will update this guidance as soon as possible, once WAJC Decisions are concluded. Business engagement including through the Business Engagement Forum continues, and I will be meeting CEOs of major supermarket retailers in the coming weeks.

Regarding Exit Summary Declarations, the Government agrees that "when Wrightbus sells one of its wonderful buses to a transport operator in the UK, why is the form needed and what is the EU going to do with the form?" We do not accept that export declarations play any role in protecting against a so-called 'back door' into the Single Market, since they concern movement of goods away from it. It is for the EU to explain why it thinks these declarations are necessary and how they can be compatible with their treaty obligations to unfettered access in Article 6 (1) of the Protocol or the obligation that the Protocol should "impact as little as possible on the everyday life of communities [in Northern Ireland]."

Regarding goods moving to Great Britain, the Government will guarantee unfettered access for Northern Ireland's businesses to the rest of the UK internal market. This will mean no steps or processes for moving goods from Northern Ireland to the rest of the UK. The only exceptions to this are for extremely limited circumstances, such as the trade in endangered species. We will set out more detailed guidance on these processes, but they are extremely limited and will have negligible impact on normal traders. Unfettered access will be available only to Northern Ireland businesses (including businesses headquartered in Great Britain with operations in Northern

Ireland). Businesses in Ireland will need to follow normal processes for importing goods into the United Kingdom, including customs declarations and paying any tariff duties that are due.

Regarding the qualifying status of Northern Ireland goods, the EU (Withdrawal Agreement) Act 2020 includes provision for the Government to define a qualifying status for goods and businesses in Northern Ireland benefitting from unfettered access. We are engaging with businesses and the Northern Ireland Executive on the means for delivering qualifying status, and will set out further details shortly.

Regarding VAT, the applicable regime will need to take account of the outcome of WAJC discussions and guidance will be provided as soon as possible. Northern Ireland will remain part of the UK's VAT and excise system, maintaining alignment on some administrative processes included within the EU VAT and excise rules for goods. HMRC will continue to be responsible for the collection of revenues, which will not be passed to the EU. The Protocol allows the Government to apply in Northern Ireland VAT exemptions and reductions, including zero rating, corresponding to those applicable in Ireland. This means Northern Ireland will, for example, benefit from the Government scrapping VAT on sanitary products from 2021. The Government is confident that we can use flexibilities available, in the context of the wider commitments to Northern Ireland's place in the UK internal market, to implement these aspects of the Protocol in a way which minimises new costs and burdens on businesses in Northern Ireland.

Turning to the 'Check an HGV is ready to cross the border' service (formerly 'Smart Freight'), the Paymaster General set out an update in an answer on 2 October to a written question. Further to my comments in the House on 23 September 2020, the service is being developed in accordance with the rigorous standards applied to the development of any digital Government service. This includes consultation and engagement with users as well as internal testing. The service has passed successfully into the "Beta" phase and is now being subjected to operational testing with users, including businesses. The final version of the service that will be in use from the end of the Transition Period will be made fully available to all users on GOV.UK in December. It is on schedule to be ready for December 2020.

Regarding the design and development work for this service, it is being delivered by the Cabinet Office's Border Protocol and Delivery Group. The routine business case approval process was followed to secure HMT funding. A minimum viable product has been defined. Following the typical process for developing a digital government service, the user needs and the means by which these could be met were explored through the earlier "Discovery" and "Alpha" phases of delivery. In these phases, we consulted industry and users. We will continue to gather feedback. Overall, a wide range of organisations have been involved in the research for the system including the logistics, haulage and freight forwarding companies. In the "Beta" phase that began in September, we increased the testing frequency and the number and range of users we test with. As set out above, the service is already undergoing performance and usability testing.

Regarding issues or bugs encountered during prototyping, these have been typical of those encountered in developing software services. By working in sprints and testing regularly, we have been able to address issues quickly. This approach will continue throughout the lifecycle of this service. We are ensuring industry understands the steps required to use the service, particularly regarding Kent Access Permits. For December 2020, we are not currently intending to use application programming interfaces (APIs) but are using open standards to retain future optionality. The team involved in the design and development of the service will remain in place after December to ensure performance is reliable and secure. Significant iterations can be communicated to industry users through existing channels and networks. The service is being

developed and operated using government design and technology principles and standards; these include designing for interoperability and use of versioning control.

Regarding contingency plans, during August the Department for Transport set out proposals in a public consultation regarding updates to the Operation Brock SIs. The consultation response is due to be published shortly. The consultation proposed that the legislation would allow the Transport Secretary to dispense with the requirement for HGVs to have a Kent Access Permit if the service is unavailable. Should a contingency be required, and Operation Brock was in a state of static queues, there would be the option to revert to manual border-readiness checks within the Brock queueing system. As was the case with the 2019 plans, manual border-readiness checks would not take place if Operation Brock was in a state of fluid flow.

Turning to the Goods Vehicle Movement Service (GVMS), this falls under HMRC's Project and Programme Management framework. The Strategic Outline Case was signed off by HM Treasury in June. HMRC finalised the system technical specifications in July, prior to sharing with carriers, hauliers and ports. Decisions were taken by relevant project and programme boards. In terms of minimum viable product, HMRC have a plan to deliver the essential functionality as set out in the Border Operating Model. This plan, as is always the case with the delivery of an IT system, is kept under review. GVMS is an internal HMRC IT build.

Regarding testing, operational testing of the GVMS User Interface with hauliers is under way. HMRC are working with carriers and operators to develop delivery plans, providing technical support and guidance on their key milestones of development, build and test and monitor progress. The technical specifications (service guides) have been available via the Developer Hub hosted on GOV.UK from July so carriers and operators can access the specifications and understand technical requirements.

Regarding the Virtualised Test Service user testing has commenced to allow carriers and operators to test their software against HMRC Specification. Registration to use the service opened in August and all nine major carriers are registered, as well as some ports and Community Service Providers. Registered users are able to start test activities when they have completed development and build. Hauliers can access the service directly through a web-based browser (User Interface), as well as a systems interface. Since early September, HMRC Digital teams have been using the system prototype to walk them through the User Interface to test their user journey. Regarding the timetable, delivery is complex but work is on track to complete delivery of core GVMS requirements needed for 31 December 2020. Further incremental releases will be delivered through 2021 as full controls are introduced in Great Britain. GVMS will require integration across multiple complex platforms, some of which are legacy systems with limited capability to change.

Regarding APIs, the GVMS technical specifications were released in July, allowing carriers and operators to access the specifications and understand the technical requirement. HMRC are working with hauliers, carriers and operators to co-develop delivery plans, accommodating technical build and testing activity in line with their individual plans. The API specification for the GVMS is broadly similar to that of 'No Deal' specifications.

Any patching requirements will be covered with future planned releases, and we will patch in 2021 as part of the build release schedule. This is normal practice across HMRC systems. HMRC will communicate patch releases to ensure full stakeholder coverage. GVMS is a greenfield technology and is backward compatible. HMRC is considering potential contingencies for all systems, including the GVMS. This work will take into consideration the UK's obligations under the Northern Ireland Protocol and the Common Transit Convention.

I hope you find this information useful. I am copying this letter to Lord Kinnoull.

With every good wish,

Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster

Committee on the Future Relationship with the European Union

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The Rt. Hon. Michael Gove MP
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24 September 2020

Dear Michael

In your statement to the House yesterday you said "the smart freight system or the goods vehicle movement service are in operation and being tested with business now"[1] When I pressed you on when this had happened you said: "They have been developed. They are in operation now. We are refining with business exactly how they should operate for businesses' benefit."[2]

Later and in response to a question from the Honourable Member for Hertford and Stortford you said "The smart freight system and the GVMS are being operated within Government at the moment, in consultation with business, and we hope they will go live so they are there for all to see in their ideal form in the course of the next few weeks."[3] You also told the Honourable Member for Cambridge that "we are working hard, internally and with authoritative expertise, to make sure that those IT systems will work. I do not think any of us can make a confident prediction that everything will always be perfect, but some of the very best people in Government and in the private sector are committed to making them work."[4]

The Goods Vehicle Movement Service and the Smart Freight System are critical systems. I would be grateful if you could clarify the answer you gave me in the House yesterday and answer the following questions:

1. When were the a) business cases and b) specifications for these systems signed off? What was the process for signing them off and who took the final decision?

2. Have you defined a minimum-viable-product (MVP) for each system?

3. What steps were taken to determine system requirements and the service specifications? How were these validated with potential end-users? Does the system specification you are working to exceed the MVP?

4. Which organisations in the private sector have been involved in developing the services?

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[1] HC Deb, 23 September, col 965 [Commons Chamber]
[2] HC Deb, 23 September, col 968 [Commons Chamber]
[3] HC Deb, 23 September, col 973 [Commons Chamber]
[4] HC Deb, 23 September, col 973[Commons Chamber]

5. When did testing of the systems commence, and how many and what kinds of businesses have been involved in the testing?

6. What issues and bugs have you come across through user testing in the sandbox environment? How long will the sandbox be available for testing?

7. At what stage is testing currently, what plans do you have for further testing and will such testing be closed (restricted or invitation only) or open?

8. What steps have you taken to make it possible for organisations and companies who wish to develop IT systems that can communicate with the GVMS and SFS to understand the service specifications?

9. It appears the GVMS will have an API (application programming interface) for certain functions. What assessment have you made of the time available to organisations and companies to develop systems or modify existing ones to work with the GVMS? How did you decide what the API needs to provide? Have any of those involved in in testing asked for functions not currently in the specification?

10. When do you anticipate that the GVMS and SFS will go live?

11. After the services go live, how will they be patched? Who will be responsible for patching the services? Has patching been covered in contractors' existing contracts? How will information on patches be communicated?

12. GOV.UK says all instances of versioning will be backward-compatible. How can you guarantee this? Are there any circumstances in which you think you might have to release a version that is not backwards compatible?

13. What is your contingency plan or fallback should these systems not work or not be ready on time?

I would be grateful for a response to these questions by Friday 2 October 2020.
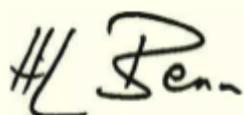
Yours

Hilary Benn
Chair of the Committee

The Rt. Hon. Michael Gove MP
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23 September 2020

Dear Michael

I raised earlier this week in the House my concerns that Parliament knows very little about what has been taking place in the Joint Committee.

Beyond broad agenda headings, the statements you have made have offered little detail. As we may not have time to ask you all the questions we wish to address when you appear before the Committee on 7 October - given that you will not commit to appearing for more than an hour - I am writing to seek answers to several questions ahead of the evidence session.

Meetings of the Joint Committee

1.   When do you expect the Joint Committee to take substantive decisions about the implementation of the Protocol on Ireland/Northern Ireland?

2.   Has either the UK or the EU set a deadline for when these decisions must be taken? If the Joint Committee is unable to take decisions on these matters by the end of December this year, what rules will apply and how will these be communicated?

Implementing the Protocol on Ireland / Northern Ireland

3.   What does the Government regard to be the main differences with the EU on putting the Protocol on Ireland/Northern Ireland into operation? How have you sought to resolve these differences? What proposals have been tabled?

Goods moving from GB to NI

4.   How does the Government want to define goods that are at risk of moving into the EU? What is the EU's position on goods deemed to be at risk of being moved into the EU?

5.   Has the Joint Committee discussed what checks are needed to determine the final destination of any goods moving across the Irish

Sea? If not, when will a decision be made?

6. What plans do you have to assess the economic impact of such checks on UK businesses? What is the Government's policy on such checks and what is the policy you are seeking to achieve?

7. What checks will goods moving from GB to NI be subject to and how will such checks be carried out? Have you assessed what systems and infrastructure are needed to facilitate these checks? Will goods at risk of being moved to the EU face additional checks?

8. What assessment has the Government made of the likely cost to businesses of the requirement to complete entry summary declarations, export health certificates, rules of origin certificates and export control certificates, and undergo SPS checks and controls? How will these checks work in practice?

9. What is the Government's approach to Rules of Origin? What discussions have you had on Rules of Origin in the Joint Committee and how might these rules affect the movement of goods?

10. When do you expect to issue detailed guidance to businesses and traders so that they have a clear explanation of all the steps and processes they need to follow when moving goods between GB and NI?

11. How confident is the Government that businesses will be able to understand the guidance, participate in any necessary training, and change their systems ahead of the end of the transition period?

Goods moving from NI to GB

12. What representations have you made in the Joint Committee on the question of exit summary declarations? What is the Government's understanding of why the EU requires such declarations on goods moving from NI to GB?

13. When do you expect to be able to give businesses and others a clear explanation of the steps and processes they need to follow when moving goods between NI and GB?

14. When will the Government publish its definition of qualifying status for Northern Ireland goods and businesses? How will qualifying and non-qualifying be distinguished?
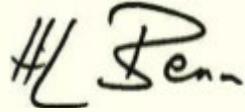
Customs duties, excise duties and VAT

15. What is the Government's policy on waivers and reimbursements of customs duties on goods moving from GB to NI? How will your policy on waivers and reimbursements of customs duties operate in practice? What systems and infrastructure will be needed?

16. What is the Government's policy on VAT in Northern Ireland? How will VAT work in practice in Northern Ireland?

17. What issues arise from the application of the EU's rules on VAT for goods and the application of UK rules for VAT on services in Northern

Ireland? Has the Joint Committee discussed the application of EU VAT rules in Northern Ireland? If so, what has been agreed?

I would be grateful for a response to these questions by Friday 2 October 2020.

Yours

Hilary Benn
Chair of the Committee