



HOUSE OF LORDS

European Union Committee

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Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
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18 December 2020

Dear Michael,

Thank you very much to you and your colleagues for giving evidence to the Committee yesterday. Please find attached an uncorrected transcript of the session, which has been published on the Committee website.

I am writing to you today in response both to your replies to Lord Thomas of Cwmgiedd on parliamentary scrutiny of the Protocol on Ireland/Northern Ireland, and to your letter dated 17 December, on the same topic.

In answer to Lord Thomas, you gave a categorical assurance that the Government would continue from 1 January 2021 onwards to provide Explanatory Memoranda on EU acts within the scope of the Protocol.

But your letter of 17 December stated that “the Government will continue to meet its commitments under the current scrutiny process through to the end of the year”, that it would not be proportionate to continue existing scrutiny arrangements after the end of the transition period, and that “there may be a short period immediately after the new year before new [scrutiny] arrangements are in place”. Your letter thus appears to contradict the welcome assurance given by you in oral evidence.

A significant body of EU laws will continue to apply directly to Northern Ireland from 1 January, regardless of the outcome of the future relationship negotiations. A part of the United Kingdom will be bound by these laws, so if they are amended, or if new laws within the scope of the Protocol are proposed by the EU, it is the Government’s constitutional duty to facilitate parliamentary scrutiny, both in Westminster and, in collaboration with the Northern Ireland Executive, in the Northern Ireland Assembly. I would therefore be grateful if you could confirm, in line with your assurance to Lord Thomas, that officials will continue to deposit EU acts falling within the scope of the Protocol from 1 January onwards, with accompanying Explanatory Memoranda.

I note also the statement in your letter that dialogue between officials on a new system of EU scrutiny may only commence once the post-transition period structure of Committees has become clear.

In the House of Lords, that structure is already clear, following the publication of the Liaison Committee’s *Review of investigative and scrutiny committees* on 15 December. The EU Select Committee, and its existing Sub-Committees, will continue until the end of March 2021, and will be succeeded from April 2021 by an EU Affairs Committee, and a Sub-Committee on

the Protocol on Ireland/Northern Ireland. Our officials therefore stand ready to begin dialogue with Government officials immediately, and we see no reason why discussions should be delayed pending decisions in the House of Commons, the timing of which is uncertain.

We therefore repeat our request that dialogue with parliamentary officials in both Houses should begin as soon as possible in the new year, with a view to finalising a mechanism for parliamentary scrutiny as soon as possible, and without prejudice to your commitment to continue providing EMs on EU acts within the scope of the Protocol.

On a separate note, you agreed in reply to Lord Teverson to follow up in writing to provide an update on the EU's decisions on third country listing, and the implications if this is not granted. We would be grateful for a separate letter on this point.

In view of the urgency of the matters at hand, we request a response on these matters, and any factual corrections or clarifications to the transcript, by the time the House returns from the Christmas recess on 5 January 2021.

I am copying this letter to Sir William Cash MP, Chair of the House of Commons European Scrutiny Committee, Colin McGrath MLA, Chair of the Northern Ireland Assembly Committee for the Executive Office, and Baroness Evans of Bowes Park, Leader of the House of Lords.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L Kinnoull', with a horizontal line underneath the name.

Lord Kinnoull
Chair of the European Union Committee