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European Union Committee

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Rebecca Pow MP
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Department for Environment,
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Seacole Building, 2 Marsham St,
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27 January 2020

Dear Minister

EM 13944/20: Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No. 2019/1020

Thank you for your Explanatory Memorandum dated 29 December 2020 on EM 13944/20: a Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No. 2019/1020. The House of Lords European Union Select Committee considered this document at its meeting on 26 January 2021.

We note the ambitious new and wide-ranging measures set out in this Regulation, compared to the 2006 Directive which it replaces. Our primary focus is on the implications of the Regulation for Northern Ireland, given its direct application under the Protocol on Ireland/Northern Ireland. In that context, we would be grateful for your responses to the following questions:

1. When will the Government's review of the 2008 and 2009 domestic regulations implementing the 2006 EU Directive conclude, and when will you bring forward proposals to strengthen the UK's approach in the context of support for the circular economy?
2. What are the implications of the proposal for the UK's electric car industry, in the context of the rules of origin requirements of the Trade and Cooperation Agreement?
3. What is your initial assessment of the future compatibility of (and potential divergence between) GB standards and those in Northern Ireland as it follows EU rules, and the implications of this for the UK internal market?
4. You state that the Northern Ireland Executive was consulted in the preparation of this Explanatory Memorandum. However, as the International Agreements Sub-Committee has reiterated in relation to its own scrutiny work, Government EMs should make clear (a) that the devolved administrations have been consulted; (b) whether they have expressed any concerns; and (c) if they have expressed any concerns, what they were and what action has been taken to address them. Can you

therefore set out what views or concerns the Executive expressed, and what action has been taken in response? How do you intend in future to engage with the Executive in relation to this Regulation, and the Government's review of the 2008 and 2009 domestic regulations?

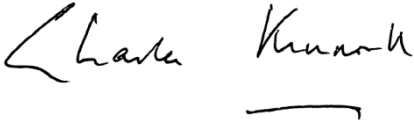
5. How has the Government consulted with, and how will it engage in the future with, business based in or trading with Northern Ireland potentially affected by the Regulation, or by potential divergence between the regulatory approach in Northern Ireland and the rest of the UK?
6. Can you elaborate on your assessment of the EU's "challenging" targets for the collection of portable batteries? Does this indicate that the Government does not intend to mirror the EU's targets? What are the practical implications of different targets operating in Northern Ireland and the rest of the UK?
7. Have you identified any other areas where it would be difficult or undesirable to mirror the EU's regulatory approach? What are the implications in terms of regulatory divergence between Northern Ireland and the rest of the UK?
8. Whether, when and how does the Government anticipate being formally informed by the EU within the Joint Consultative Working Group of the Regulation, as a "planned Union act within the scope of the Protocol", in line with Article 15(3) of the Protocol?
9. Can you elaborate on your statement that, notwithstanding its direct application in Northern Ireland, "any additional requirements ... would need to be put in place through domestic legislation in relation to Northern Ireland"? In which areas, as well as in relation to enforcement, will domestic legislation be required? What form will such legislation take, and what issues will it cover? Will it have UK-wide implications in the context of the review of domestic regulations, or will it apply only to Northern Ireland? Will it be brought forward by the UK Government or Northern Ireland Executive?
10. Can you explain the interaction between the Regulation, the Government's review of domestic regulations, and the UK common framework on resources and waste? When will the common framework come into force, has it been provisionally applied, and how will it apply in Northern Ireland?
11. How does the Government intend to represent Northern Ireland's interests in its dialogue with the EU on this Regulation?
12. How will the Government facilitate parliamentary scrutiny, both in Westminster and the Northern Ireland Assembly, ahead of its adoption and implementation?

We would be grateful for a response to this letter by 10 February 2021. In the meantime we will retain this document under scrutiny. In view of our commitment to cooperate with the Northern Ireland Assembly as regards Protocol-related scrutiny, I have copied this letter to Declan McAleer MLA, Chair of the Assembly Committee for Agriculture,

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Environment and Rural Affairs; Dr Caoimhe Archibald MLA, Chair of the Assembly Committee for the Economy; and Michelle McIlveen MLA, Chair of the Assembly Committee for Infrastructure. In view of the relevance to the common framework on resources and waste, I have also copied this letter to Baroness Andrews, Chair of the House of Lords Committee on Common Frameworks.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lord Kinnoull', written over a horizontal line.

Lord Kinnoull
Chair of the European Union Committee