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The Earl of Kinnoull
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Dear Charles,

UK participation in EU meetings

I am writing in reply to your letter of 4 September to provide further clarity on the Government's decision only to attend EU meetings where the UK has a significant national interest in the outcome of discussions. This letter sets out answers to the Committee's questions. I hope this is useful and supports the Committee in carrying out its role.

Can you expand on the rationale behind the Government's decision? What practical impact will it have on UKRep and departmental ministers and officials?

This decision reflects the fact that the UK's exit from the EU on 31 October is now very close and many of the discussions in EU meetings will be about the future of the EU after the UK has left.

As the PM promised in the House of Commons in July, as a departing Member State it makes sense to 'unshackle' officials from these EU meetings to enable them to better focus their talents on our immediate national priorities. This includes, as the top priority, work on preparations for Brexit on 31 October and on our future relationship with the EU, but also on pioneering new trade deals and promoting a truly Global Britain. This will reduce attendance by over half and save hundreds of hours. Our decision to no longer attend EU meetings is not designed to obstruct EU business - quite the reverse.

Where matters of significant national interest are being discussed, the UK will continue to be present until 31 October.

Can you also clarify what your definition of “EU meetings” includes? Does the decision extend to the participation of arm’s length bodies such as Ofcom or the Food Standards Agency in EU meetings?

All formal and informal EU meetings to which UK Ministers and officials have access or can attend, solely because the UK is an EU Member State, are in scope. This includes EU Council meetings, expert groups and comitology meetings. The announcement covers all multilateral EU coordination meetings which are attended by the UK as an EU Member State. This policy does not apply to independent regulatory bodies or bilateral engagement meetings.

Given the varying degrees of structural independence of arm’s length bodies (ALBs) from Government, not all ALBs are within the scope of this decision. UK Government departments are engaging with their EU-facing ALBs, informing them of the Government’s decision to reduce attendance at EU meetings. It will be down to the discretion of each department to assess and decide how to advise ALBs within their remit.

Sir Tim’s letter states that the UK ministers and officials “will participate only in those EU meetings where the UK has significant national interests involved”, and defines this as “those that directly affect UK sovereignty, international relations, security, and financial contributions.” Is this an exhaustive list? To take some examples, this appears to exclude meetings discussing the EU internal market, agriculture or fisheries policy, food safety, data equivalence or financial services, notwithstanding the fact that EU policy in these areas could have significant implications for the UK. Does the UK intend to participate in such meetings?

The criteria set out in Sir Tim’s letter provides a guide as to what the Government considers to be in the national interest. Attendance will be decided on a case by case basis, and we will keep the Committee up to date on which meetings we attend.

The Government will also continue to work collaboratively with the devolved administrations on ongoing EU business. This will include the determination of priority meetings for the UK to attend.

Sir Tim states that the Government will make decisions regarding its attendance “on a case by case basis based on the agenda of the meetings”. How far in advance of meetings will such decisions be made? In the interests of transparency, can you commit to sharing on a weekly basis with the Committee, and publishing, an updated list of forthcoming meetings and those that the Government will or will not participate in?

The Government is happy to share regularly with the Committees a list of the forthcoming meetings that the Government will participate in. In order to ensure that this list best balances the requirements of the Committee with what is practically deliverable in the time available, I suggest that DExEU officials discuss this with your Committee’s Clerks to agree the most appropriate format.

In making its decision on whether or not to participate, I would also be grateful to know how the Government will take into account the views of this Committee and our House of Commons counterpart on the legal and political importance of the documents in question. Will the Government commit to attending meetings where legislative documents are held under scrutiny by this Committee under the scrutiny reserve resolution?

The Government will of course consider the views of the Committee (and its House of Commons counterpart) on whether a UK representative should attend meetings about documents held under scrutiny as part of the usual scrutiny process. I also agree that departments should provide a reason to Committees where the Government chooses not to attend a meeting that a Committee has suggested merits UK attendance.

Sir Tim's letter also reaffirms the UK's commitment to the duty of sincere cooperation and will not stand in the way of the conduct of EU business. He states that, in order to provide for this, the UK will if necessary "make appropriate arrangements regarding its vote so that EU business can continue smoothly." Can you elaborate on this? Will you be making arrangements with the Finnish Presidency regarding the casting (or otherwise) of the UK's vote? What will determine whether the UK decides to vote in favour, against, or to abstain in each given case?

To ensure that non-attendance at EU meetings does not hold up EU business, therefore breaching our duty of sincere cooperation, the UK may need to delegate its vote to another Member State. This will only be done where it is expected that UK non-attendance would mean that the EU would be unable to progress its business. In the event that the UK's non-attendance would obstruct EU business, we will delegate our vote to Finland as they hold the Presidency of the EU. We are working closely with the Finnish Presidency to ensure that the UK's decision to reevaluate UK attendance at EU meetings doesn't obstruct voting processes for EU business.

Your letter acknowledges that the Prime Minister's decision "may have implications" for the work of the Committee. These implications appear to be far-reaching. How in your view does this decision relate to the terms of the scrutiny reserve resolution? What precedent does this provide for any future scrutiny system post-Brexit, should it be deemed necessary or desirable to scrutinise EU legislation with implications for the UK?

The Government is committed to leaving the European Union on 31 October. As such we do not expect that in practice there will be many legislative proposals still under scrutiny by the Committee which will be affected by this change. Nor would the Government expect a great number of new legislative proposals to emerge in our remaining few weeks as an EU Member State. The Government will continue to meet its commitments to update the Committee on the progress of files that the Committee have held under scrutiny, especially on those that come for decision at Council, engaging the reserve resolution.

The implications of the decision for the future scrutiny system post-Brexit depend on the method by which we leave the European Union on 31 October. The Government is committed to renegotiating the Withdrawal Agreement and will keep the Committee updated on any progress and any likely implications for the scrutiny system. We do not consider that the decision creates any precedent for the future scrutiny system post-Brexit.

Can you also confirm that the Government will continue to deposit Explanatory Memoranda (EMs) and explain how the Government will respond to scrutiny correspondence on items already held under scrutiny, but where the Government no longer participates in EU meetings?

I can confirm that the Government will continue to deposit EMs and respond to scrutiny correspondence. The approach taken to responding to items under scrutiny where the Government is not participating in EU meetings will be decided on a case by case basis to best answer the questions of the Committee.

The Government is committed to leaving the EU on 31 October and as such we do not expect that there will be many instances where this will become an issue. In practice the Government would in any case also expect there to be considerable overlap between the items which the Committee considers to be of legal and political importance, and those which the Government believes merit continued UK attendance at meetings.

Will you also commit to notifying us of whether, and how, the UK's vote has been carried out, of the outcome of such votes, and on the progress of legislative files?

The Government will continue to provide the information requested by the Committee on the progress of legislative files.

Finally, do you agree that any vote cast on the UK's behalf by the Finnish Presidency or by other means will engage the scrutiny reserve resolution, potentially leading to a scrutiny override?

We will discuss with the Committee individual instances where votes cast on the UK's behalf by the Finnish Presidency or any other means could engage the scrutiny reserve resolution. In practice, for many votes where we abstain, this would not constitute a scrutiny override.

Kind regards,



**LORD CALLANAN
MINISTER OF STATE FOR EXITING THE EUROPEAN UNION**