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Rt Hon Damian Green MP
First Secretary of State
Minister for the Cabinet Office
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11 December 2017

Dear Damian,

The Scottish Government has welcomed the proposed agreement published on 8 December as a step forward in the negotiations on the United Kingdom's withdrawal from the European Union, whilst recognising that the negotiations to agree the future relationship will be even more challenging.

Events last week have again emphasised the close and necessary connections between all aspects of these negotiations, within the United Kingdom as well as with the EU. Those are demonstrated most starkly in the sections of the proposed UK-EU agreement that relate to Ireland. The proposed agreement sets out that, in certain circumstances, the Northern Ireland Executive and Assembly can "agree that distinct arrangements are appropriate for Northern Ireland".

These are matters that directly affect Scotland's interests, especially our relative competitive position. They are also of direct relevance to our discussions on proposed UK-wide frameworks and the European Union (Withdrawal) Bill. Despite that, the Joint Ministerial Committee on EU Negotiations (JMC(EN)), whose remit includes oversight of the negotiations with the EU and agreement of a joint UK approach and objectives, has had no discussion about the terms of this week's agreement.

I find it difficult to reconcile the commitments that the UK Government has made unilaterally in relation to Northern Ireland with either the terms of reference of the JMC(EN) or the principles that we agreed in October to underpin consideration of common frameworks on matters such as agriculture and state aid. In effect, what is set out in the proposed UK-EU agreement would allow Northern Ireland to opt for different arrangements, whereas our discussions have proceeded explicitly on the basis set out in the agreed principles that it would be the aim of "all parties to agree where there is a need for common frameworks and the content of them".

The Scottish Government fully supports the protection of the Good Friday Agreement and welcomes the UK Government's guarantee that there will be no hard border. However, we

now need clarity on the implications of the proposed UK-EU agreement for the other nations of the UK.

It is hard to see how any effective and enduring agreement can be concluded on common frameworks if it is not clear to which parts of the UK such frameworks will apply. The Scottish Government's firm view is that any special arrangements for Northern Ireland must also be available to the other UK nations; otherwise we risk being placed at a competitive disadvantage.

We also need, more than ever before, the full involvement of the Scottish Government and the other devolved administration in agreeing the UK's future relationship with the EU and how that will be negotiated.

As I indicated to you on Friday, we need to discuss these issues as a matter of urgency at tomorrow's JMC(EN) meeting.

I am copying this letter to David Davis and Mark Drakeford, and to David Sterling, head of the Northern Ireland Civil Service.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Michael Russell', with a long horizontal stroke extending to the right.

MICHAEL RUSSELL