



Rt Hon Penny Mordaunt MP
Paymaster General & Minister of State
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Helga Maria Schmid
European External Action Service (EEAS)

Our reference: MC2020/04648

Michel Barnier
European Commission
Task Force for Relations with the
United Kingdom

27 April 2020

Dear Helga and Michel,

BELFAST OFFICE OF THE EU DELEGATION TO THE UK

Thank you for your letter to Sir Simon McDonald of 25 March, setting out your case for establishing a Belfast office of the EU Delegation to the United Kingdom. I am responding as alternate UK co-chair of the Withdrawal Agreement Joint Committee, which will oversee discussions on Article 12.

We have fully considered the arguments in your letter. However, the Government's position remains as set out in Sir Simon McDonald's letter of 25 February: the UK cannot agree to the permanent EU presence based in Belfast which you propose. While Article 12 gives EU officials the right to be present during the activities of UK authorities related to the implementation and application of the Protocol, we do not accept that that necessarily requires an EU Delegation office in Belfast, or indeed any other permanent EU presence in Northern Ireland. Such work can be undertaken by other means, for example through ad hoc visits, which we would of course facilitate as necessary.

We have three specific difficulties with the proposal and with your arguments.

First, the context in which we reached agreement on the Article 12 provisions is important. In February 2018, the EU proposed a Northern Ireland-only backstop, which included provision for joint UK-EU customs controls at Northern Ireland ports.

This proposal and the provision for joint controls was consistently rejected by successive UK Governments. The Prime Minister was clear in the proposals for a revised Protocol put forward on 2 October 2019 that any checks and controls must be carried out by UK authorities, and indeed the final text of the Protocol is clear in Article 12(1) that "*the authorities of the United*

Kingdom shall be responsible for implementing and applying the provisions of Union law made applicable by this Protocol."

Against this background, the proposition of a permanent EU office, with permanent staff whose primary purpose (as you acknowledge) would be to engage in a form of supervision of UK implementation of the Protocol, is not consistent with the delicate balance of rights and responsibilities, on both Parties, set out in the Protocol. Indeed to many it would look like a return to the concept of joint controls even though that was specifically rejected in negotiations.

Second, one of the primary purposes of the Protocol is the protection of the Belfast/Good Friday Agreement in all its dimensions. We must therefore aim to implement it in a way that is acceptable to both communities in Northern Ireland and mitigates its effects on them. Both the EU and the UK face obligations in this regard and both sides must make special efforts to develop reasonable proposals in implementing the Protocol. A special EU office, uniquely in the regions and nations of the UK, in order to implement a Protocol that has attracted controversy, would in our view be divisive in political and community terms. Both parties should therefore work to find a way to implement the Protocol's requirements which is less contentious and more likely to deliver the necessary results.

Third, the Protocol itself specifically provides, under Article 12(3), that the working arrangements to enable EU representatives to exercise their rights shall be determined by the Joint Committee, upon recommendation by the Specialised Committee. There have not yet been any discussions on this issue, though we are very happy to have them in the coming months.

In short, we propose that that we pursue those discussions on working arrangements, as envisaged in Article 12(3), in good faith, in the light of the evidence, and seek to reach a solution which respects both the UK and EU's positions and meets the fundamental objectives of the Protocol and the Belfast/Good Friday Agreement, to which we are all committed.

A handwritten signature in black ink, appearing to read 'P M Mordaunt', with a stylized flourish at the end.

Rt Hon Penny Mordaunt MP
Paymaster General