

16 September 2019

Dear NPA project/potential project partner,

NORTHERN PERIPHERY AND ARCTIC NO DEAL BREXIT PREPARATION FOR UK PROJECT PARTNERS

You may be aware that the UK Ministry of Housing, Communities, and Local Government has written to UK partners in European Territorial Cooperation (ETC) where the programme areas include regions of England to update them on ETC no deal Brexit preparations. Scottish Government and Northern Ireland Executive are writing separately to UK partners in the NPA as we have agreed to manage no deal preparations for this programme.

With 62% of people in Scotland voting to remain in the European Union (EU), the Scottish Government (SG) opposes EU withdrawal and furthermore has stated that the UK Government should take the idea of leaving on 31 October 2019 without a withdrawal agreement off the table. Contemplating a No-Deal scenario is irresponsible, and should be unthinkable. It would have significant negative economic and social consequences for Scotland and indeed for the whole of the UK.

However the UK Government (UKG) continues to insist that a No-Deal scenario is possible, despite the inevitable widespread damage and disruption it would cause. As we continue to operate in a period of prolonged uncertainty around UKG's plans to exit the EU, it may be helpful for me to set out SG's current understanding of how the UK's exit from the EU may impact on UK partners in the ETC Northern Periphery and Arctic (NPA) Programme (UK partners in other ETC programmes have been written to separately by UKG). I also want to set out the measures we are taking to mitigate the potential risks involved to help protect the interests of UK and EU-27 project partners in ETC programmes and if possible allow their projects to continue.

In expectation of the UK's exit from the EU, the European Commission (EC) has issued two regulations that allow the UK to remain part of the European Regional Development Fund and European Social Fund programmes, including ETC. The first regulation allows the UK to stay within the existing programmes until December 2019, the second regulation extends this offer to the end of December 2020. Both are dependent on the UK paying its share of the EU budget during 2019 and 2020 respectively and SG continues to lobby UKG to commit to this.

For the future programming period from 2021 the UK is named in the draft EU ETC regulations as a third country and like other third countries such as Norway and Switzerland we see no reason why Scotland and the rest of the UK should not continue to participate after Brexit. It is SG's policy to continue to cooperate with our European neighbours through these programmes and we are doing what we can to ensure that that happens, including pressing UKG to ensure that funding is made available.

If the UK leaves the EU **with a deal** then ETC projects can continue as planned and further applications can be made as normal. Despite the current uncertainty, SG and other UK and Devolved Administration Government officials continue to attend programme events and meetings as normal.

The UK Government has stated that under a 'No-deal Brexit', HM Treasury (HMT) will honour the outstanding allocations of ETC funding committed by Managing Authorities (MAs) to UK project partners under the 2014-2020 programmes. Payments to UK partners in ETC projects approved before the end of the current 2014-2020 programme period are also covered under the HMT guarantee.

However, even with the HMT guarantee, for ETC projects and programmes to continue in a no deal scenario this may require agreement with other parties such as the European Commission and/or the individual ETC Managing Authorities.

Scottish Government officials are working with colleagues across the UK and liaising with Managing Authorities in Europe to prepare contingency plans for continuation of current programme period projects with UK partners in a no deal scenario.

In the event of a no deal EU exit we believe that there are at least 3 potential options which could allow the projects to be completed and a further option where as a last resort SG and other UK officials would work with UK partners to help reconfigure their part of the projects on a standalone basis:

Option 1

SG is pressing UKG to agree to the EU's proposal in their regulations which allow the UK to stay within the existing ETC programmes until December 2020. This is dependent on the UK paying its share of the EU budget during 2019 and 2020.

Under this option it would be business as usual until the end of 2020 and there would be time for further negotiation to allow payments after that to be secured. We would hope that it should be possible for this negotiation to be successfully concluded given that the draft EU ETC regulations for post 2020 include UK as a third country.

Under this option the MA could continue to honour the existing NPA contracts, projects could continue working as now and new applications would be processed as normal.

Option 2

If UKG does not agree to paying its share of the EU 2019 and 2020 budget it would be open to the UKG and EU to conclude a "side agreement" to cover its share of the ETC budget which is dispersed to the NPA Managing Authority (MA). Alternatively it could be agreed that UKG could transfer its financial contribution for completion of the programme directly to the MA. This option may require the EU to further amend some of its regulations, for example, to include the UK as a named third country in the current ETC regulations.

Under this option (as with option 1) the MA could continue to honour the existing contracts, NPA projects could also continue working as now and new applications would be processed as normal.

Option 3

If options 1 or 2 are not agreed then it may still be possible for NPA projects to continue under existing or slightly modified project partnership agreements. In this scenario for each project there could be two parallel contracts set up.

One would be for the remaining European partners who would have a new contract with the MA which would now include the UK partner only as an associate. If the existing lead partner was from UK then a new non-UK lead partner would need to be confirmed with the MA. This would cover all project payments to non-UK partners and would be funded by the EU.

The second but “parallel” contract would be between the UK partner(s) and the Scottish Government and/or the Northern Ireland Executive. This would cover all project payments to UK partners and would be funded from the UKG HMT guarantee.

Under this option UK and non-UK project partners could continue working together to complete their projects with funding flowing separately under parallel contracts.

Option 4

This option would involve SG and other UK officials working with UK partners to help reconfigure their part of the projects to work with other UK partners or on a standalone basis. If this was possible (and it is recognised that it may be difficult to achieve, given that international collaboration is at the core of most ETC projects) then we have been advised by UKG that UK partners eligible costs could also be met from the HMT funding guarantee.

Next steps

You may want to discuss the options in this letter with your NPA project partners and it may be useful to let your views be known to the NPA Managing Authority/Joint Secretariat. Although we have discussed the options with the NPA Managing Authority/Joint Secretariat you will understand that they are unlikely to be able to give definitive answers to your questions at this point in time.

This letter seeks to inform you of the measures we are taking to mitigate the potential risks involved for NPA projects in a no deal EU Exit. Taking this into account we want to encourage you, as NPA project partners/potential partners, to carry on with business as usual to deliver your NPA projects. This is the outcome we aim to support if possible, one way or another.

If it is confirmed that the UK will leave the EU **without a deal** and all the above becomes relevant we will be in contact with you as project/potential project partners to consult with you and advise on what you need to do. If you have any urgent enquiries in the meantime please email ESF_Interreg@gov.scot and we will respond as soon as possible.

This letter is being sent to NPA project/potential project partners in Scotland and England. Northern Ireland Executive will write separately to Northern Irish partners.

Kind regards

John Maxwell
Head of State Aid and Territorial Programmes EU Exit Planning