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FROM: **MARTIN MONAGHAN** **Copy distribution below**

DATE: **28 JUNE 2016**

TO: **ANDREW ELLIOTT** **Your Ref: SUB 62/16**

EU Referendum

Malcolm McKibbin's note of 24 June 2016 asked Permanent Secretaries to identify the implications of the EU referendum result within their own departments.

Please find attached the Department of Finance's input at Annex A, which outlines the major implications for this Department.

Please note that a separate return will issue from the Departmental Solicitor's Office.

If you require any further information, I will be happy to discuss.

MARTIN MONAGHAN

Distribution:
David Sterling
Colin Sulivan

Budget 2016

- The Finance Minister will shortly initiate a series of ministerial bilaterals on the Budget 2016 process. This process is intended to lead to the construction of an Executive agreed draft budget by end-September. The funding envelope for that Budget process may be changed significantly by the UK Government (particularly if there is an 'emergency' UK budget announced). In light of this risk, there is now a question against the wisdom of asking the Executive to formulate three-year (Resource) and four-year (Capital) budgets. A more prudent course at this stage might be to set a one-year budget on the Resource side to allow the UK fiscal position to stabilise. There would still be merit in setting a four-year Capital budget which would give some degree of planning certainty to departments and the local construction sector.

North/South Bodies

- The UK withdrawal from the EU will create some difficult questions for the North/South Bodies. These questions include the legal framework within which they must work, procure, employ etc.

Northern Ireland Investment Fund

- The Northern Ireland Executive has committed to establishing an Investment Fund, working in collaboration with the European Investment Bank (EIB). The BREXIT outcome may significantly alter the extent to which the EIB will engage on this project moving forward.

Implications for Devolution of Corporation Tax

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[redacted]

[redacted]

[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[Exempt under Section 35(1) (a): formulation or development of government policy]

Azores/State Aid

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[Exempt under Section 35(1) (a): formulation or development of government policy]

Implications for Aggregates Levy

[redacted]

[redacted]

[redacted]

[Exempt under Section 35(1) (a): formulation or development of government policy]

Background

- The Aggregates Levy is an environmental tax on commercially exploited aggregates. In recognition of the potentially distortive effects of the Levy in the north (no such tax is levied in the south) the ALCS gave an 80% tax relief for aggregates originating in the north, in return for quarries meeting environmental standards. The scheme ran from 1 April 2004 to 30 November 2010.

- Having originally approved the ALCS in 2004, the European Commission was required to investigate the ALCS after legal challenge by the British Aggregates Association (BAA) in the European Court in 2010 – with the UK Government suspending the scheme from 1 December 2010.

- The Commission published its full determination in November 2014, reaffirming its original (2004) decision that the Scheme was lawful, subject to the UK Government reimbursing 80% of the levy paid on aggregate imported into the north from other Member States between 1 April 2004 and 30 November 2010. The UK Government introduced legislation in April 2015 to retrospectively correct this distortion.

[redacted]

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[Exempt under Section 35(1) (a): formulation or development of government policy]

European Structural Fund Programmes

- Northern Ireland participates in four 2014-20 European Structural Fund programmes: Jobs and Growth, managed by Department for the Economy (DfE), and the PEACE IV and INTERREG VA Programmes managed by the Special EU Programmes Body (SEUPB). The Department of Finance acts as the UK Member State in respect of these programmes. The EU funding allocations to these programmes are outlined in the table below.

Programme	Funding from EU (€m)
Investment in Growth and Jobs ERDF Programme	308
Investment in Growth and Jobs ESF Programme	205
INTERREG VA	240
PEACE IV	229
Total	**982**

- In addition, a Rural Development Programme funded by the European Agriculture Fund for Rural Development (EAFRD) provides a further €228m. This is not a Structural Fund programme, and is the responsibility of DAERA. NI also benefits from funding under the UK European Maritime and Fisheries Fund (EMFF) Programme which is administered on a UK-wide basis by the Department for Environment, Food and Rural Affairs (DEFRA).

- EU Structural Fund programmes are co-financed by the EU, with the remainder funded by public or private match funding. In respect of PEACE IV and INTERREG VA, the programmes are 85% funded by the EU. The Executive and Irish Government have committed to provide match funding of up to 15%. The EU contributes 60% of the total funding to the ERDF Programme and 40% to the ESF Programme. Cashflow for the EU elements of the programmes is provided in advance by the Member State, through accountable government departments, and subsequently reimbursed from the European Commission after expenditure has been incurred, verified and certified.

Implications of UK exit

- The implications for the current funding programmes of the vote to leave the European Union are not immediately clear nor is it likely to become clear in the immediate future. The UK Government will lead on negotiations on the terms of the exit, which it is assumed will occur during the implementation period of the current 2014-20 programmes. The final date for eligible expenditure under the programmes is 31 December 2023.

- The primary question is the degree to which funding commitments from the EU to the UK Member State are honoured, following the outcome of the negotiations. The programmes comprise annual financial allocations, with expenditure required within three years of each annual allocation. It is conceivable that programmes could be halted mid-term. However, as projects are generally multi-annual, lasting for periods of three to five years, there is a financial risk in issuing Letters of Offer without certainty over whether funds would be reimbursed by the Commission.

- The Prime Minister has indicated that invocation of Article 50 of the Lisbon Treaty, which begins the negotiation period, will not occur until his successor is appointed in September 2016. Therefore, the Commission's position on financing current programmes beyond the short term is unlikely to be known for some time. It remains the goal of DoF to maximise potential EU income under the current programmes, and the DoF Minister wishes to see business as usual.

- In the absence of a Commission position, and with the possibility that the EU may not meet funding commitments for the full programming period, a UK Government position should be sought on whether it would underwrite funding commitments, in full or in part. Should the UK Government be unwilling to give such assurance, the Executive could be asked to agree to underwrite commitments made under the programmes in the event that neither Commission nor UK Government ultimately does so.

- In the absence of assurance from the Commission, UK Government, or the Executive to fully or partially underwrite EU funding commitments, there is a financial risk in Managing Authorities entering into funding contracts with projects. In the short term, consideration may need to be given to freezing letters of offer and suspending Steering Committees (the decision making bodies for Programme applications), pending the outcome of discussions with the EU Commission and the Executive.

- Delay in obtaining an interim position from the UK Government or the Executive to underwrite funding will delay implementation of the programmes. Due to the EU "N+3" expenditure targets, under which the annual budgets are de-committed if unspent within three years, delay in implementation introduces a risk to drawdown of the full programme allocations from the Commission, in the event that the EU ultimately does agree to honour commitments to the full allocations.

- Neither the PEACE IV nor INTERREG VA Programmes have yet committed funds to projects. Both are in the application assessment phase, with the first commitments under INTERREG VA expected within the coming month. The European Social Fund Programme and European Regional Development Programme had both begun to commit funding to projects prior to the referendum result becoming clear.
[redacted]

[Exempt under Section 35(1) (a): formulation or development of government policy]

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[Exempt under Section 35(1) (a): formulation or development of government policy]

Impact on public procurement law

- The UK does not leave the EU until the European Communities Act 1972 and its implementing regulations have been repealed. In the meantime, the public procurement rules remain the same.

- It is too soon to say what the longer-term implications for public procurement rules will be. Officials have been in touch with procurement counterparts in Scotland and Wales and agreed to work closely on common interests.

- All governments require a clear set of procurement procedures and processes. These help ensure value for money, prevent fraud and corruption, and mean suppliers can be confident that they will be treated fairly.

- While public procurement is a devolved matter, what those procedures look like in the longer term will be strongly influenced by what sort of trade agreement the UK negotiates with the EU and others. For example, the current European Economic Area countries are required to apply the EU Public Procurement Directives.

- The World Trade Organisation's Government Procurement Agreement (GPA) facilitates trade with a range of countries, for example, the EU collectively, USA, China and Japan. Though not so detailed as the EU Public Procurement Directives, this sets down a number of requirements including not creating unnecessary obstacles to international trade, time periods, publication of notices, use of electronic procurement, the basis of contract awards, and review mechanisms.

Northern Ireland Statistics and Research Agency (NISRA)

- The immediate issue relates to a [redacted] increase in demand for birth certificates since last Thursday. This is assumed to be linked to the rise in demand for Irish passports. It is having an immediate effect on GRO resourcing. NISRA has reprioritised people from other branches into this area but it isn't known how prolonged the demand will be. Eventually, there may be an effect on turnaround times and targets for priority orders may be affected.

[Exempt under Section 22: information intended for future publication]

- In the longer term, NISRA has 6 posts fully engaged in supporting the EU programmes – 3 in SEUPB and 3 in DAERA working on the Rural Development Programme.

- Much of NISRA's statutory data collection, not least the Census, is under European Statute. There may be legislative implications in this, but it is too early to be specific about the detail.

- NISRA recently engaged with Eurostat on the reworking of the NUTS areal definitions. This was approved by the Executive and has been welcomed informally by local councils. It is unclear now whether this will be enacted in NI for funding purposes (the target date was 2018).

- In terms of statistics more generally, we have a line from ONS to which we also will subscribe if pressed – "It is important that our statistics remain comparable with those of other countries. However, much of the framework is set not by the EU but by other bodies, such as the United Nations, the World Health Organization or the International Labour Organization, and so the British decision to leave the EU is not expected greatly to impact on our statistical outputs"