



HOUSE OF LORDS

European Union Committee

House of Lords
London
SW1A 0PW

Tel: 020 7219 5864
Fax: 020 7219 6715
euclords@parliament.uk
www.parliament.uk/lords

Rt Hon David Davis MP
Secretary of State for Exiting the European Union
9 Downing Street
London, SW1A 2AS

3 November 2017

Dear David

Thank you for appearing before the House of Lords EU Committee on Tuesday 31 October. I am writing to follow up a number of the points raised during the meeting, and to invite responses to questions that we did not have time to ask, due to the interruptions for divisions in both Houses.

During the evidence session, you were asked about the sectoral analysis of the impact of Brexit that the Government has undertaken. Subsequently, on 1 November, the House of Commons decided that “the list of sectors analysed under the instruction of Her Majesty’s Ministers [should] be laid before this House and that the impact assessments arising from those analyses be provided to the Committee on Exiting the European Union”.

You will be aware that a Private Notice Question was tabled in the House of Lords on 2 November, asking whether the documents in question will also be disclosed to this Committee. As was pointed out in the ensuing exchange, the principle of parity of treatment between the two Houses (and their Committees) is important. Given this Committee’s close scrutiny of the Brexit negotiations, including regular evidence sessions with you and the publication of over 20 Brexit-related reports, the Committee would, I know, be grateful for your confirmation that we will receive the same information, on the same terms, as our House of Commons counterparts.

I am also aware that you have commenced discussions with Rt Hon Hilary Benn MP, regarding handling of these documents. I look forward to the opportunity to engage in similar discussions with you or with Lord Callanan (who, in the 2 November exchange, offered to meet me), and have asked the Committee’s staff to contact your officials to make the necessary arrangements.

During the evidence session, you offered (at Q8 of the transcript) to write in response to Lord Cromwell’s question on whether legal aid will be available to people applying to the Supreme Court, with regard to the interpretation of EU precedent and legislation; and also to my question on when the other pieces of Brexit-related legislation, including the Immigration Bill, will be introduced. We would be grateful for written responses to both of these questions.

With regard to citizens’ rights (also at Q8) you said that one of the issues for the EU 27 was “how trustworthy” the arrangements would be, given the sovereignty of the UK Parliament. You indicated that one way that this might be addressed would be to include a provision in the EU Withdrawal Bill so that “the Supreme Court can pay attention to the

jurisprudence of the European Court so that, if there is any reinterpretation, it is on a level playing field.” At present, Clause 6(2) of the EU Withdrawal Bill provides that: “A court or tribunal need not have regard to anything done on or after exit day by the European Court, another EU entity or the EU but may do so if it considers it appropriate to do so.” Are these two positions compatible? If not, are you minded to amend Clause 6(2) in order to clarify the situation?

Lord Liddle asked you a set of questions (at Q9 of the transcript), which you did not have an opportunity to answer. In particular, he asked whether a “bare-bones deal” would involve an implementation period or a financial settlement; and whether the Government’s sectoral analyses have included an assessment sector by sector of what trading under WTO terms would mean. Again, we would be grateful for a response to these questions.

In addition we were not able to ask a number of questions because of the time lost to divisions. We would therefore be grateful for a written response to the following:

- What is your response to the opposition of the US and other countries to the joint UK/EU proposal on future tariff rate quotas?
- It seems that discussions on some issues are taking place in other fora – for instance, the UK and the EU agreed to send a joint letter to the WTO proposing a division of the EU’s existing tariff rate quotas. How do these discussions relate to the core Brexit negotiations?
- Are there any other examples of Brexit-related issues where the UK and EU are already exploring issues outside the framework of the Article 50 negotiations? How will you keep Parliament and the Committee informed about such developments?

Finally, thank you for agreeing to appear before the Committee again in January, to reflect on the outcome of the December European Council. We would like to invite you to appear either on Tuesday 9 or Tuesday 16 January, at 4pm, and I would be grateful if you can let us know as soon as possible on which date you will be available to appear.

We would be grateful for a response to this letter by Friday 17 November.

Yours ever



Lord Jay of Ewelme
Acting Chairman, House of Lords European Union Committee