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Lord Jay of Ewelme  
Acting Chair, European Union Committee  
House of Lords  
London  
SW1A 0PW

30 November 2017

Dear Lord Jay,

Thank you for your letter of 3 November following my appearance before the European Union Select Committee on 31 October.

I understand that you recently met with Lord Callanan and that your office is in contact with his regarding arrangements for sharing the Government's sectoral analysis with the Committee.

During the recent evidence session, I promised to write regarding two issues.

In relation to your question about legal aid, the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) came into force on 1 April 2013 and provides the statutory basis for the legal aid scheme. The scope of civil legal aid is described in Schedule 1 to the Act and there are statutory tests of means and merits that applicants are required to undertake.

Legal aid may be made available for matters arising from or interpreted as a matter of EU precedent that fall within the scope of LASPO. For example, a judicial review that required consideration of EU precedent would be within the scope of the scheme.

You also asked when the other pieces of Brexit-related legislation, including the Immigration Bill, would be introduced. Four Brexit bills have been introduced in Parliament already this session. These are the EU (Withdrawal) Bill, the Nuclear Safeguards Bill, the Sanctions and Anti-Money Laundering Bill and the Trade Bill.

The Taxation (Cross-border Trade) Bill will be introduced shortly following the debates on its Ways and Means resolutions. We anticipate that the remaining bills on immigration, fisheries and agriculture will be introduced later in the session.

I am sorry that divisions in the Commons disrupted parts of the evidence session but I am happy to set out responses below to the further questions in your letter.

You have also asked about how citizens rights and any other provisions of the negotiating agreement will be protected and enacted domestically after our departure. As I set out in my statement to Parliament on 13 November, we will introduce further legislation - the Withdrawal Agreement and Implementation Bill - to implement the Withdrawal Agreement, agreed with the EU, in domestic law.

The Bill will be introduced after the Withdrawal Agreement has been agreed by the EU and the UK. This means major policies set out in the Withdrawal Agreement will be directly implemented into our domestic law by primary legislation, and not by secondary legislation under the EU (Withdrawal) Bill.

While the content of the Implementation Bill will be dependent on the outcome of these negotiations, we expect the Implementation Bill to cover the contents of the Withdrawal Agreement. That includes issues such as an agreement on citizens' rights, any financial settlement and the details of an implementation period agreed between both sides. The Implementation Bill will be vital for the UK's smooth and orderly exit from the EU.

This announcement provides further clarity on our commitment to incorporating fully the agreement we reach on citizens' rights into UK law. This will ensure that EU citizens in the UK can directly enforce their rights in UK courts - providing certainty and clarity for the long term. The Government have made it clear that our courts would be able to take account of rulings of the European Courts in this area, to help to ensure consistent interpretation.

You also asked about the implementation period; we are confident that a future partnership between the UK and EU is in the interests of both the UK and the EU, so we continue to approach the negotiations anticipating success. However, we continue to plan responsibly for a range of possible outcomes, including where the UK leaves the EU without a deal. Our ambition remains high. But we continue to prepare for all eventualities as any responsible government would do.

As the Prime Minister set out in her speech in Florence, the UK will not be a member of the European Union after March 2019 but we are proposing a time-limited implementation period to allow business and people time to adjust and to allow new systems to be put in place. The exact terms of any implementation period will be subject to the negotiations. Our priority is to ensure continuity, recognising the need to promote stability for businesses and individuals.

With regards to the financial settlement with the EU, the Prime Minister was clear in her Florence speech that our European partners will not have to pay more or receive less over the remainder of the budget plan as a result of the UK's decision to leave the EU. The UK will honour commitments made during the time of our membership.

Regarding tariff rate quotas, the agreed approach between the UK and EU on the data and methodology for how we separate tariff rate quotas forms the first part of the co-operative, inclusive and open engagement we will have with WTO members.

The joint UK-EU letter sent on 11 October and which you referred to in your letter sets out our proposals, and we will continue to work in accordance with WTO rules and procedures. We have already provided reassurance to other WTO members by announcing our intention to replicate, as far as possible, our obligations to them under the current commitments of the EU. This will ensure we minimise any disruption to trade.

We are also working closely with New Zealand, the US and other countries to reassure them that they will not lose out through this process.

Establishing UK-specific schedules of commitments at the WTO is a key element of implementing the decision to leave the EU. The UK and EU have a shared interest in doing this in a way which is co-operative, transparent and which minimises disruption to trade. The EU shares our vision for how to take this forward in practice and we have set that out in a letter to the WTO Membership.

With regards to the negotiations, in line with the core negotiating principles agreed with the Commission, the UK will continue to engage constructively, as a full and responsible Member State, in the Article 50 negotiations with the Commission. We have continued to keep Parliament and the public informed as the negotiations unfold. But we have made no secret of the fact that to provide certainty we must be able to talk about the future.

In relation to future discussions, over the summer, the Government published a series of papers on the new deep and special partnership the UK wants to build with the EU. These papers represent the hard work and detailed thinking that has been going on behind the scenes across Whitehall since last year's referendum.

They offer pragmatic and innovative solutions to issues related to our withdrawal and the future deep and special partnership that we want with the European Union. They do not aim to dictate a single approach, but rather considered options for us to work on.

At the October European Council, the 27 Member states responded to the progress made by agreeing to start their preparations for moving the negotiations on to trade and the future relationship we want to see. We welcome this development. It will enable us to make faster progress once they are ready to progress talks in this area.

I trust that you will find this response helpful. As I said at the evidence session, I would be happy to appear before the Committee in January to discuss these issues further. I have asked my officials to make the necessary arrangements.

A handwritten signature in blue ink, appearing to read 'David Davis', with a large, sweeping flourish underneath the name.

**RT HON DAVID DAVIS MP**  
**SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION**