



# 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

Chris Heaton-Harris MP  
Parliamentary Under Secretary of State for  
Exiting the European Union  
9 Downing Street  
London, SW1A 2AS

16 January 2019

Dear Mr Heaton-Harris,

**EM 14272/18: Communication from the Commission on Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan**

**EM 11169/18: Communication from the Commission on Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019**

Thank you for your Explanatory Memorandum, dated 19 December 2018, on EM 14272/18, the Commission Communication on Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan, and also for your letter, dated 21 December 2018 on EM 11169/18, the preceding July 2018 Commission Communication. The House of Lords European Union Select Committee considered these documents at its meeting on 15 January 2018. In so doing, we have also considered the Commission's subsequent Communication on Implementing the Commission's Contingency Action Plan, issued on 19 December 2018, although the EM on this document has yet to be received.

In the context of the continuing possibility of a no deal outcome with less than 80 days until the UK withdraws from the EU, the three-month delay in responding to our letter of 5 September is unacceptable. Likewise, the delay in receipt of EM 14272/18 meant that the document was only received one day before the new Commission Communication on Implementing the Commission's Contingency Action Plan, which largely supersedes it, was published. Such delays inhibit the Committee's ability to scrutinise these important documents. Can you therefore confirm that the EM on the December document will be published as a matter of priority?

Given that parliamentary approval for the Withdrawal Agreement and Political Declaration has yet to be secured, we are surprised by the tone of your letter of 21 December, and in particular your assertions that no deal remains an "unlikely event" and that the chances of no deal have "reduced considerably". In view of the continuing political *impasse*, what is the basis for such confidence?

The Commission's Communications make clear that it envisages its no deal preparations as taking the form of a series of unilateral measures, instead of a single or several bilateral agreements with the UK covering key sectors such as aviation. Does this rule out a 'managed no deal' model, as advocated by some members of the Government? Is a 'managed no deal' a viable outcome in the Government's view, and if so, how is it defined, and what

would it entail? Your letter indicates that the Government would prefer, where practicable, to work with the Commission (and EU Member States) rather than on separate unilateral exercises. What are you doing to seek to convince the EU of the benefits of such an approach?

The Commission has indicated that some of its no deal measures are conditional on reciprocal action by the UK, namely in relation to its decision to waive EU visa requirements for UK nationals for short stays, and the regulation to allow UK air carriers to operate in the EU 27 for 12 months. What is your response, and what reciprocal action do you propose to take in these areas?

Conversely, your letter states that it is “not good enough” for the Commission to state that UK nationals in the EU may be subject to third country national rules which may affect their right to stay and work in their country of residence. What further steps will you take to encourage Member States to reciprocate the UK’s offer to EU citizens in full? Are there any other areas where you would wish to see the EU take reciprocal action to the UK’s no deal preparedness measures?

The Commission specifically highlights citizens, financial services, air and road transport, customs, animal and plant health requirements, personal data, and EU climate policy as areas requiring special attention in the event of a no deal. Do you share the Commission’s identification of these as the key priority areas? Are there any others you would identify? Can you summarise the action you are taking in each case?

Beyond the technical notices already issued, and the legislation already adopted, does the Government intend to issue further non-legislative proposals in the areas where the Commission intends to take action?

What is your response to the Commission’s proposals to limit UK participation in the ETS system from 1 January 2019, even while the UK remains an EU Member State? Given that these will be active from 1 January 2019, do they potentially place the UK at a disadvantage vis-à-vis other Member States? Will the Government seek to register a complaint to the Commission on the grounds of discrimination?

The Commission does not list any measures in the area of security as part of its no deal contingency planning. What steps is the Government taking to ensure continued UK-EU security cooperation in the event of no deal?

We note that the Commission’s no deal measures specifically exclude Gibraltar. What are the implications of this? What assistance is the UK Government providing to the Government of Gibraltar regarding its own no deal preparations?

We would be grateful for a response by 29 January 2019. In the meantime, we will continue to hold the documents under scrutiny.

I am copying this letter to Sir William Cash MP, Chair of the Commons European Scrutiny Committee, Jessica Mulley, Clerk to the Commons Committee and Les Saunders, DExEU.

Yours sincerely,

Tim Boswell

Lord Boswell of Aynho  
Chairman of the European Union Committee