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for Transport

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From the Secretary of State  
**The Rt. Hon. Chris Grayling**

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Thank you for your letters of 7 and 15 January, firstly about Freight and Brexit and secondly containing submissions from Dr Andrew Watt and Dr Albert Sanchez-Graells, who contest the legality of the freight contracts into which we have entered in order to mitigate possible disruption to cross-Channel ro-ro traffic in the event of a no-deal outcome.

Your first letter coincided with my Written Statement<sup>1</sup> of the same date, which answers the majority of the questions you have raised, either in whole or in part.

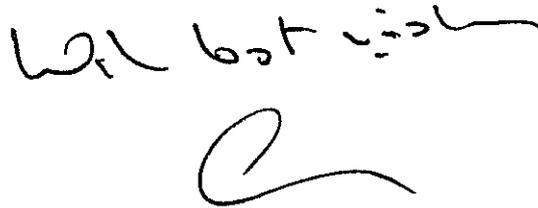
However, to aid the Committee further in considering this matter, I attach an appendix with reference to your numbered questions. To ensure we responded to your Committee in a timely way, these responses focus on elements that were not given in my Written Statement.

In response to the letter and attachments of 15 January, I would again refer the Committee to the 7 January Written Statement. While the ambition of Government is to ensure an orderly exit from the EU, the Department has been undertaking a range of work to mitigate the impact on the transport sector of a no-deal EU exit. Given the unexpected and unforeseeable limitations on the extent to which the market had to date been able to respond to the risk of no-deal by putting in place contingency plans to prepare for this scenario, the Government completed a procurement process to secure additional freight capacity.

<sup>1</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-01-07/HCWS1233/>

At the same time, the lead times required for acquisition of vessels, planning of fleets, marketing of routes, and necessary works at ports on each end of the routes was limited. The time available for Seaborne to prepare was and is challenging, but this seems a strange basis for arguing that the matter was not, in fact, urgent in this particular case.

I note the detailed points advanced by Dr Watt and by Dr Sanchez-Graells. However, the Department stands by the award of these contracts as a responsible measure to secure capacity in the public interest in conditions of extreme urgency.

A handwritten signature in black ink, appearing to read "Watt but wish" followed by a stylized flourish.

**Rt Hon Chris Grayling MP**

**SECRETARY OF STATE FOR TRANSPORT**

## TRANSPORT COMMITTEE QUESTIONS ON FERRY CAPACITY PROCUREMENT

References to "the WMS" below are to HCWS 1233 of 7 January.

1. See WMS and the Contract Award Notices ("the Notices") published in the Official Journal of the European Union on 28 December 2018. As stated in the Notices:

"A situation of extreme urgency exists in the context of UK-EU roll-on-roll-off ferry capacity by virtue of the UK leaving the EU on 29.3.2019 and the prospect that this exit may be on a no-deal basis. This extreme urgency arises from a combination of events, and the anticipated response to those events of a range of entities, including:

1) The possibility of severe congestion at and around UK ports from 29.3.2019, caused by increased border checks by European Union Member States, and consequently a significant reduction in capacity at ports on the Short Straits. It is anticipated that this could, without further intervention to secure additional ferry capacity, cause delivery of critical goods to be delayed and cause significant wider disruption to the UK economy and to the road network in Kent;

2) The significant lead times that are required to source additional ferry capacity which require action to be taken several months in advance of the capacity being required to be delivered; and

3) Unexpected and unforeseeable limitations on the extent to which the market has to date been able to respond to these circumstances by putting in place contingency plans to deal with this scenario."

2. See WMS.
3. Details of the contracts are commercially sensitive for the time being. However, the essence of the requirements is to make sure that the capacity contracted for is supplied.
4. The Department's assessment was that the availability of capacity in this particular sector of the shipping market, especially in relation to ferries designed for accompanied HGVs, is particularly tight and that a large proportion of that capacity is controlled by incumbent ferry operators.
5. See WMS.
6. Services will run frequently. The exact number and time of sailings vary as between the different operators and routes.
7. As noted at Q3 above, contractual details are commercially sensitive.
8. As noted at Q3 above, contractual details are commercially sensitive. However, aside from termination and *force majeure* provisions, the

essence of the contracts is that contractors are to be paid for capacity they actually provide.

9. See WMS. The Department has assessed the contribution of these contracts to resilience against constriction on the short Strait.
10. Detailed risk assessments and contractual mitigations are commercially sensitive. However, the contracts are designed to safeguard the taxpayer against delivery risks.
11. See WMS. The Department, supported by external advisers, undertook due diligence on Seaborne Freight.
12. Yes. These matters were taken into account in due diligence.
13. Again, these matters were taken into account. As set out in the WMS, the management has extensive experience in the shipping and maritime sector including operation of ferry services.
14. These were significant considerations in agreeing the contract with Seaborne.
15. The posting of the material referred to on Seaborne's public website was clearly a regrettable error, and was rectified once it had been pointed out.
16. The operator was hoping to start a service, but had not hitherto been able to make good its aspirations.
17. Securing vessels is the responsibility of Seaborne Freight.
18. The Department is working closely with Thanet and Seaborne to help ensure that the necessary physical preparations are undertaken.
19. Since scheduled ferries have not operated at Ramsgate since 2013, there is need for some physical works to return the Port to operational capability for such services. Our expectation is that services should commence by April.
20. Border Force has been in discussions with Thanet Council as operator of the Port of Ramsgate, and with Seaborne Freight, on customs, excise and immigration checks over a period of months, and plans are well developed.
21. This contract is separate from that for the dredging which is currently in progress.
22. No. The Government's firm view is that this capacity contract does not confer State Aid.

Department for Transport

January 2019