



Department
for Exiting the
European Union

Rt Hon David Davis
Secretary of State for Exiting the European Union
9 Downing Street
SW1A 2AG

+44 (0)20 7276 1234
correspondence@dexeu.gov.uk
www.gov.uk

Lord Jay of Ewelme
Chair, Committee on Exiting the European Union
House of Commons
London
SW1A 0AA

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Dear Lord Jay,

Thank you for your letter of 1 August in response to my letter of 28 July. I hope I am able to clarify a number of points you have raised and, in addition, I wanted to take this opportunity to update the Committee on the July round of negotiations on the UK's withdrawal from the European Union.

As you know, I made a commitment to give an oral update to the House of Commons after each round of negotiations. The Minister of State, Baroness Anelay, has committed to repeat this for the Upper House therefore ensuring each House has the opportunity to question ministers on progress made in both the July and August rounds. I intend to make such a statement when Parliament returns in September.

I am, however, conscious of summer recess and as such I have written to colleagues as well as to your Committee to provide an update on progress made during the second round of negotiations. This update is set out later in this letter.

Turning first to the specific points raised in your letter of 1 August, I want to emphasise that I fully recognise the critical role the Committee plays in scrutinising our withdrawal from the European Union. It is for that reason I am clear that, as the Secretary of State who represents the UK in Brussels, I should personally update the Committee on the progress of negotiations. I would be delighted to appear before your Committee while the House is sitting in October following the fourth and fifth rounds of negotiations.

I am keen to provide further information on the number of women in the UK's negotiating team as requested by Baroness Kennedy of the Shaws, and I have written to her personally as well as providing an update here.

On this point, it is important to emphasise that the negotiations are a cross-government effort and as such the UK negotiation team pulls together officials from across HM Government. In July over 90 officials travelled to Brussels to support the negotiations and my department released information about the UK's negotiating team on gov.uk, including biographies.

Using the July round as an example, approximately 60 percent of the UK's negotiating team were men and 40 percent were women. This represents those from

Whitehall and UKRep who attended working groups or plenary meetings and is not limited to Senior Civil Servants. The senior team is neither exhaustive nor necessarily fixed, as evidenced by the incorporation of Sarah Healey, Director General at DExEU, as a senior lead for the July negotiating round. As I say, though, this will vary from round to round as we deploy the best available staff for each issue under negotiation.

I thought it might also be useful to include some information on the gender makeup of the department as a whole, as each member of the department is key to making the UK's exit a success. As of 31 July 2017, women make up approximately 52 percent of the department's workforce and men 48 percent.

We continue to strive towards achieving diversity across the civil service, representative of modern day Britain, and as Secretary of State for DExEU, I remain committed to supporting that objective. I will also continue to work for the best possible deal for the UK during these negotiations, and that means using the best expertise we have available to support the negotiation in DExEU and across Whitehall, regardless of gender or any other factor.

I hope you have found this written update useful and I, along with my ministerial team, look forward to discussing progress over the summer with colleagues when we return in September. As I set out in my discussions with the Committee on 11 July, I remain open to other means by which we can keep parliamentarians updated on the negotiations whilst protecting the UK's negotiating position. I look forward to discussing that and other matters when I meet the Committee again.

Negotiations Update

As you know, the opening round in June was primarily about agreeing a process by which we could begin to negotiate the UK's withdrawal from the EU. This round saw the first full and substantive discussions between the UK and EU on some of the key issues that process will need to address. Beginning on Monday 17 July, the second round took place across four days of difficult, but ultimately productive, discussions.

The main focus, as planned, was on citizens' rights but discussions also took place on the financial settlement, Northern Ireland / Ireland, and various separation issues. The main objectives for this round were to build on the initial dialogue established at the June round by moving towards more detailed discussion and identification of areas of agreement and disagreement.

The purpose of this round was not to reach firm agreement (i.e. jointly agreed legal text), but rather about building trust in the process, and understanding where there might be room for compromise.

Taking each of the main working groups in turn, the citizens' rights working group held three days of constructive and substantive discussions on the bulk of the issues underpinning our respective positions. We have taken a significant step forward. There is a much clearer understanding on the detail of the positions on both sides and significant convergence on the key issues that really matter to citizens.

It is clear that both sides want to move swiftly towards an agreement and the discussions underlined the importance placed on providing reassurance to EU citizens and UK nationals. We have now published a joint paper which is available on gov.uk¹ that sets out our respective positions in more detail. This underlines both the significant alignment between our positions and also provides clarity on areas where we have not as yet reached agreement.

We have achieved a high degree of convergence on the scope of our proposals on residence and social security; our interpretation and definition of key concepts such as what is meant by 'permanent residence/settled status' and 'continuous residence'; the eligibility criteria that we propose applying for residence applications; the rights of current family members; and a shared commitment to make the application process as efficient and streamlined as possible.

Of course there are other, previously known, areas of disagreement which we didn't expect to resolve in July. For example, we will need to have further discussions on the specified cut-off date, future family reunion and the broader issue of compliance on enforcement. On this latter issue, we have made clear that we are entering into an international agreement with the EU27 which will create binding obligations on us and which we will implement in UK law.

Consequently EU citizens in the UK will have legal redress and be able to enforce their rights. But we recognise that these issues will require further analysis and discussion by both sides. During the negotiating round it also emerged that the EU would not be maintaining the existing voting rights for UK nationals living in the EU.

We have made it clear that we stand ready to protect the rights of EU nationals living in the UK to stand and vote in municipal elections. The European Parliament was clearly mistaken on this point in its recent letter published in all Member States. A number of other issues in the EU offer also emerged that will need further consideration. For example, posted workers were excluded from the scope of their offer whereas we stand ready to protect their rights in the Withdrawal Agreement.

The EU has also confirmed that their offer only guarantees residence rights in the Member State in which a British national was resident at the point of our exit from the EU. It does not guarantee the holder of those residence rights any right to onward movement within the EU, for example to work or study in a neighbouring Member State. We have questioned whether this is consistent with the principle of reciprocity, and also with the Commission's desire to protect rights currently enjoyed under EU law.

This will be the subject of further discussion in due course. We have also made clear that we are prepared to commit in the international agreement to going further in some respects than the requirements of the free movement directive, for example as regards the position of those, such as students, who may have been absent for

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/631038/Joint_technical_note_on_the_comparison_of_EU-UK_positions_on_citizens__rights.pdf

longer than two years at the point of our exit. The EU has not as yet been able to commit to matching those proposals.

For the next round in August we shall consider the issues of mutual recognition of professional qualifications and economic rights which by agreement were not discussed in the July round. We shall also deepen our technical analysis of the social security provisions.

On separation issues, which covers a wide range of technical issues relating to our withdrawal, sub-groups made progress in a number of specific areas:

- a. With respect to nuclear materials and safeguards issues, discussions took place on the need to resolve issues around the ownership of special fissile material and safeguards equipment, and the need to ensure that safeguards arrangements are in place that are commensurate with the UK's international obligations. Both published position papers were discussed in detail, with analysis of where they converged and diverged. We discussed the strong mutual interest in ensuring that the UK and Euratom Community continue to work closely together in the future and the UK's ambition is to maintain a close and effective relationship with the Euratom Community and the rest of the world that harnesses the UK's and the Euratom Community's expertise and maximises shared interests. We agreed that the respective position papers would form the basis of discussions in forthcoming rounds.
- b. With respect to legal cases pending before the CJEU, the parties discussed the categories of cases in scope for discussion, including cases brought by the UK and cases brought against the UK, and clarified the intent and the rationale for each.
- c. With respect to privileges and immunities, the teams discussed the application of privileges and immunities for a period after exit to support the residual continuation of certain activities of the EU in the UK. The EU provided clarity on their approach to ongoing confidentiality obligations and both sides agreed to have detailed discussions on the matter at the next round of negotiations.
- d. With respect to judicial cooperation in civil and commercial matters, and ongoing judicial cooperation in criminal matters, the teams completed an initial scoping of the issues to be addressed in future rounds.
- e. With respect to goods, both parties agreed on the importance of avoiding disruption, and of providing legal certainty to businesses and consumers across the EU and the UK. The parties agreed that further exploration was needed of how these objectives would be achieved.

The negotiation team explored a number of Northern Ireland / Ireland issues, including the operation of both the Belfast ('Good Friday') Agreement and the Common Travel Area and associated rights on the basis of UK expert presentations. More detailed discussions are planned for the next round of negotiations, including in relation to the Common Travel Area and North-South and East-West co-operation under the Belfast Agreement. Of course the key issues in relation to cross-border

economic co-operation and energy will need to form an integral part of discussions on the UK's future relationship with the EU.

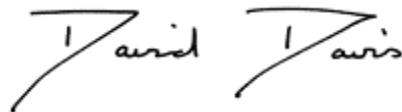
In the financial settlement discussions we focussed on exploring the EU position paper (Working Paper "Essential Principles on Financial Settlement"). The UK and the Commission engaged positively on the basis of the Government's Written Ministerial Statement on 13 July, which recognised that the UK has obligations to the EU, and the EU to the UK.

Scoping discussions were also held on governance and dispute resolution, which provided an opportunity to build a better, shared understanding of the need for a reliable dispute resolution mechanism and joint supervision, but also a model that served each other's needs. It was agreed that discussions would resume in August.

Finally, I held a plenary session to close the July round, which was followed by a press conference with Michel Barnier. My closing remarks are appended to this letter.

All in all, the second round of negotiations have given us a lot to be positive about. They have however only served to reinforce my view that we cannot negotiate the UK's exit properly without addressing what our future relationship looks like.

I hope you will find this update useful. I will update the House again in September following the August round.

A handwritten signature in black ink that reads "David Davis". The signature is written in a cursive style with a large, sweeping initial 'D'.

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

APPENDIX: SECRETARY OF STATE DAVID DAVIS' CLOSING REMARKS AT THE END OF THE SECOND ROUND OF EU EXIT NEGOTIATIONS IN BRUSSELS

Thank you Michel. Thank you for your contribution and indeed your team's constructive talks this week.

On Monday we agreed to get down to serious business. But before turning to the substance I want to reiterate the four core principles that continue to guide the United Kingdom's approach.

First, we continue to engage constructively, as a full and responsible Member State. Second, we continue to work hard and at pace. We had 98 civil servants here this week. Third, we negotiate for every nation and region of the United Kingdom. Our goal is to secure a deal that works for all parts of the country. And finally, we will keep Parliament and the public informed as the negotiations unfold.

Which moves me onto the substance.

Overall, I am encouraged by the progress we have made on understanding each other's position on citizens' rights; the financial settlement; the first meetings of sub-groups on separation issues, and on the issues around Ireland and Northern Ireland.

Since the first round of negotiations, the UK has published its approach to citizens' rights. The talks this week have demonstrated that this was both a fair and serious offer. I am pleased by the progress we have made.

We have looked at each others proposals in depth and identified many concrete areas where we agree as well as areas where there will be further discussion, which will be a priority for the next round as Michel has said.

We have also agreed to publishing a joint paper today that sets out the many areas of convergence in our proposals, and the areas we need to prioritise for future discussion in our future rounds.

Michel listed a number of the areas which require that future discussion and I won't reiterate them, I'll add to them: issues like voters' rights, posted workers and of course as he said the need for shared certainty. We agreed on the need for certainty on the part of citizens both in the EU and the UK, we obviously have different views on how we achieve that.

On financial settlement, we both recognise the importance of sorting out the obligations we have to one another, both legally, and in the spirit of mutual cooperation. We have had robust but constructive talks this week. Clearly there is a lot left to talk about, and further work before we can resolve this. Ultimately getting to

a solution will require flexibility from both sides. But as Michel said, we shouldn't expect incremental progress in every round.

On Ireland and Northern Ireland, our coordinators – this is a discussion rather than a working group – have had a good discussion. Both sides remain committed to the Good Friday agreement and again as Michel said achieving a flexible and imaginative solutions to address the unique circumstances around the border, and particularly on the north/south dimension of the agreement. These include the mechanisms we have discussed to preserve the Common Travel Area and the rights associated with it. Rights laid down of course in a British Act of Parliament as well as in part in the Amsterdam Treaty.

On separation issues, we have made progress on a range of issues, Michel mentioned most of them: Euratom; legal cases pending before the European Court of Justice and administrative procedures before Union institutions and of course goods on the market. These discussions have laid important groundwork for progress in the next round.

All in all, the second round of negotiations have given us a lot to be positive about. And they have also highlighted the need for both sides to demonstrate a dynamic and flexible approach in the way we approach these challenges.

We have conducted this round constructively and at pace, and I hope this is a model we can continue going forward. To coin a phrase Michel, the clock is ticking. I came here saying that it was important that we now made progress, identifying the differences so we could deal with them, and finding the similarities so we could reinforce them.

And this week, I think we have done just that.