



EUROPEAN COMMISSION
Task Force for Relations with the United Kingdom
The Head of the Task Force

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Dear David,

Thank you for your letter of 19 May 2020 regarding the publication of various UK draft legal texts that day.

We welcome this publication. In line with our transparency policy, the Commission had already made public, on 18 March 2020, a draft legal agreement for an ambitious, modern, and comprehensive future EU-UK partnership, covering all areas of the negotiations as outlined in the Political Declaration agreed with Prime Minister Johnson seven months ago.

I share your commitment to helping the process move forward together. I do not think, however, that an exchange of letters regarding the substance of the negotiations is necessarily the best way to discuss on substantial points. It cannot be a substitute for serious engagement and detailed negotiations and, in particular, I would not like the tone that you have taken to impact the mutual trust and constructive attitude that is essential between us.

Let me make three points in order to clarify some of the points you made in your letter and which concern the overall context of our exchanges.

First, the EU agreed in October 2019 a Political Declaration with Prime Minister Johnson setting out the framework for our future relationship, with an agreed balance of what we had set out to achieve.

This is the only precedent that the EU is following. We have remained faithful to the Political Declaration in the legal text we have proposed to the UK, which shows how the objectives that we had jointly defined in October 2019 can be translated into a comprehensive agreement.

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Our ambition is to achieve, as part of our comprehensive economic partnership, a free trade agreement, with no tariffs or quotas on any goods. Of course, our new trading relationship will never be as fluid as the current situation within the Single Market or the Customs Union. This reflects a sovereign and independent UK choice, which we respect and do not question. Such a choice comes with consequences.

The EU and the UK are equally sovereign and as such will set the conditions for access to their respective markets. Regardless of what your letter suggests, there is no automatic entitlement to any benefits that the EU may have offered or granted in other contexts and circumstances to other, often very different, partners.

Every agreement that the EU has concluded is unique, with its own balance of rights and obligations, tailored to the partner and era in which it is concluded. There is no model, no uniform precedent to follow in EU trade policy.

Neither is there a right to what you admit are unprecedented UK proposals in a number of areas. Just as we do not accept selective benefits in the Single Market without the corresponding obligations, we also do not accept cherry picking from our past agreements. The EU is looking to the future, not to the past, in these negotiations.

Second, you mention specifically a few areas of divergence, and focus on the question of level playing field.

The UK cannot expect high-quality access to the EU Single Market if it is not prepared to accept guarantees to ensure that competition remains open and fair. The EU has been clear about this since 2017. This was unequivocally stated by the European Council guidelines of 23 March 2018 mandating “*work towards a balanced, ambitious and wide-ranging free trade agreement (FTA) insofar as there are sufficient guarantees for a level playing field*”. Given our geographic proximity and economic interdependence, there must be robust level playing field safeguards to avoid distortions of trade and unfair competitive advantages, to the benefit of consumers and companies on both sides. Modern high-quality trade and economic agreements go beyond the traditional goal of simply eliminating tariffs and need to protect – or even raise – social and environmental standards, in the general interest of citizens and consumers.

This means upholding the common high standards applicable in the EU and in the United Kingdom at the end of the transition period in the areas of state aid, competition, social and employment standards, environment, climate change, and relevant tax matters. It also requires appropriate mechanisms for the effective implementation of these standards domestically, as well as for enforcement and dispute settlement. This does not mean that the UK would be bound by EU law after the end of the transition period in these areas; the UK will remain entirely free to set its own higher standards. But we need to give ourselves concrete, mutual and reciprocal guarantees for this to happen.

In this regard, whereas I believe detailed discussions on substance are for the negotiating table, I would like to respond once again to your proposal to reduce the ambition of our future economic partnership by letting go of our shared commitment for a “zero tariff, zero quota” agreement (which you describe as a “low-quality trade agreement”). As I mentioned to you last week, apart from the fact that we do not have necessary time for a negotiation on each tariff line, the EU has always made clear that any future trade agreement between us will have to include strong level playing field guarantees, irrespective of whether it covers 98% or 100% of tariff lines.

Third, and with regard to law enforcement and judicial cooperation, the EU has never previously offered such a close and broad security partnership with any third country outside the Schengen area. Some UK demands in this area go well beyond the well-precedented approach it declares to be taking. In particular, UK seeks continued access to EU or Schengen databases. Such access is linked to the obligations that Member States have to comply with and would go beyond what some of them have today.

These are also all areas that by their nature require strong safeguards in terms of protection of fundamental rights. We need the UK to provide those guarantees, as agreed only seven months ago in the Political Declaration, such as adequate data protection standards.

In conclusion, I would like to state again that the success of our negotiation will only be possible if tangible and parallel progress is made across all areas of negotiations, including engagement on and commitments to a level playing field and appropriate governance mechanisms, as well as to balanced, sustainable and long-term arrangements on fisheries. The next round must bring this new dynamism in order to avoid a stalemate.

I remain convinced that with mutual respect and constructive engagement by the UK across the board, on all issues on the negotiating table, we can move forward in the limited available time.

Yours sincerely,



Michel Barnier