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Ysgrifennydd y Cabinet dros Gyllid
Cabinet Secretary for Finance



Llywodraeth Cymru
Welsh Government

The Rt. Hon David Davis, MP
Secretary of State for Exiting the EU

26 June 2018

Dear David

UK Government White Paper

I am deeply concerned by the state of the negotiations with the EU27 and the uncertainty the UK Government's approach is creating across key areas of the economy and with regard to the future delivery of public services. Not only does it seem inevitable that there will be no substantial progress on the Withdrawal Agreement at this week's June European Council meeting, but media reports are now suggesting further slippage beyond October. We are entering a critical time and the UK Government's forthcoming White Paper needs to set a new direction on a number of key issues and do so in a way that is clear to the EU and businesses.

Given the UK Government's handling of the negotiations there remains a real possibility of a catastrophic "no deal" Brexit. We have said many times this would be a disastrous outcome for Wales and indeed the whole UK. The recent announcement from Airbus demonstrates, yet again, the potential impact that the UK Government's current stance on our future economic relationship could have on our economy. Moreover, we know that in the face of the uncertainty created by the UK Government's chaotic approach to the negotiations businesses are already pausing or cancelling investments or restructuring operations to reduce reliance on EU markets.

Following the June European Council meeting the UK Government's White Paper is an opportunity to change direction and to challenge the EU to live up to the promise that a better deal can be on the table if you rub out your red line positions. The White Paper is also the opportunity to set out positions which all parts of the UK can unite around and support. I repeat my call for substantive discussions on the White Paper with the Devolved Administrations before the UK position is agreed.

The Welsh Government's evidence based approach set out in our White Paper, *Securing Wales' Future* and our subsequent policy papers provide a blueprint for the right form of

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Brexit for Wales and indeed the whole UK. Ahead of our discussions which I trust will follow, I want to highlight the key aspects of our future partnerships with the EU which we provided in our policy documents.

Future Economic Partnership

No evidence has emerged to challenge our position that securing the right Brexit that safeguards the economy, the jobs and the incomes of people across the UK depends on continued close integration with the economies of our EU neighbours. The EU is and will continue to be our most important trading area. The White Paper needs to set a new direction to the UK's stance by seeking agreement for participation in the Single Market and a Customs Union. The consequences of a hard Brexit or worse "no deal" are clear and must be avoided.

While we welcome the gradual shift in the UK Government's thinking to recognise the importance of retaining that close integration and what that requires, this needs to be more explicit to benefit from the more generous negotiating position promised from the EU. Your temporary customs arrangement needs to be strengthened to form a long term position of participation in a Customs Union and include agreement for participation in the Single Market. As set out by the European Commission, the UK cannot have frictionless borders without commitment to both of those issues - customs and regulatory alignment; nor can any agreement be time limited.

Our evidence demonstrates a number of major sectors that are vulnerable to reduced access to EU markets. In particular the automotive, aerospace, chemicals, steel and electrical engineering sectors require frictionless trade to make and sell their goods. These sectors are strongly represented in Wales and account for many of the higher skilled, better paid jobs in the Welsh economy. As demonstrated by the announcement from Airbus, the aerospace sector is particularly at risk from non-tariff barriers. Regulatory alignment must be a priority. Regulatory alignment is also critical for our agriculture, fisheries and food sectors. New burdens or delays at the border could have catastrophic consequences for those sectors where access and speed to markets are essential.

There are also a number of horizontal measures that support the future economic partnership where Welsh interests must be incorporated including on State Aid. Of course our preferred model for full and unfettered access to the Single Market would require alignment to EU State Aid rules and requirements. Any alternative arrangements need to be developed with the Welsh Government that ensures a level playing field whilst also recognising the importance of regional investment to support the historic legacy of economic disadvantage in Wales.

We also believe that the current suite of social and environmental protections and values developed jointly with the EU covering issues such as animal and plant health, maximum working hours and action to prevent the exploitation of low paid workers are crucial to the economy and society that we want to promote. Leaving the EU cannot be an excuse for diluting or rowing back on standards which have improved lives for our citizens.

Mobility Framework

Our position on issues we expect to be covered in the mobility framework is set out in our policy paper, *Brexit and Fair Movement of People*. We believe migrants have made a positive contribution to Wales' economy and more widely to our society. At the same time we recognise the concern that the extent and speed of immigration from the EU was a key concern in the referendum for many who voted to leave.

We believe any future UK system for regulating reciprocal freedom of movement of people between the UK and the EU/EEA should be fair, transparent, non-exploitative and rules-based. There is a great deal the UK Government can do to increase its control of migration without jettisoning the principle of freedom of movement which would place a huge obstacle in the way of reaching agreement with European partners on continued participation in the Single Market. In our view for those who are neither studying nor have independent means, freedom of movement for new migrants from the EU/EEA into the UK should be linked to employment. This might require new and more effective administrative processes than the Home Office has hitherto had, but would be compatible with the practice in other EU and EEA member states and the principle of free movement of people.

Future Security Partnership

Many of the areas under consideration in the future security partnership are in non-devolved areas in Wales but I am keen to make sure the arrangements are robust and support the overriding objectives of a safer UK and Europe. It is clear the external and internal threats we face require a continuation of joint working and collaboration. Our law enforcement agencies operating across the UK need a firm legal basis to continue in the cooperative work with an operational and legal model that also maintains and enhances our values regarding human rights, democracy and equality. Again it is your government's arbitrary red lines that appear to be the main risk to securing the continuation of closely integrated working.

Institutional Framework

The UK's new relationships with the EU will require an appropriate institutional framework to support their operation, and to manage any disputes should they arise and we are attracted by the model of an Association Agreement as mooted by the European Parliament. We are concerned that the UK Government's abstract and ideological red line regarding the role of the CJEU risks the significant benefits that come from operating within EU systems and laws. The UK Government needs to take a pragmatic approach to the future role of the CJEU that recognises the potential role of the CJEU that necessitates high alignment and high integration which are essential to our future economic prosperity and wider societal benefit. The Government could be much more actively investigating the way in which the EFTA court works as a possible model, which does not involve supra-nationality.

Given the future governance model will cover both devolved and non devolved matters it is essential that this is developed and operated jointly with the devolved governments. Before the model has been proposed to the EU we need to make sure it is sufficient to operate within the UK context reflecting devolved responsibilities.

In addition to the development of a governance model to operate UK-EU relationships, we also need to develop appropriate inter-UK governmental governance and operating models. It is clear the JMC process is inadequate to deal with the complexities of the UK's withdrawal from the EU. As the level of intergovernmental working will increase and intensify a new approach is urgently needed. In our policy paper *Brexit and Devolution* we outline the case for change and propose a model built around the Council of Ministers which would operate along lines similar to, but on much smaller scale than, the EU Council of Ministers. This Council of Ministers would have a structure and work programme designed to enable the negotiation and implementation of binding UK wide framework agreements.

Engagement with the Devolved Administrations

While we welcome the new processes put in place to improve intergovernmental working we remain frustrated by the lack of meaningful engagement on your forthcoming White Paper. While we appreciate the high level discussions at the first Ministerial Forum and more recently in the margins of last weeks British Irish Council, we have repeatedly called for early sight of the text of the White Paper ahead of collective agreement by the UK Cabinet. Without this meaningful engagement it is difficult to see how the position of the Welsh Government can be incorporated into the UK negotiating position.

Engagement with the devolved administrations cannot be a tick box exercise. We are strongly committed to the confidentiality of the discussions which take place within the JMC(EN) and Ministerial Forum to facilitate an intergovernmental dialogue. At a time when the UK Government is being criticised by the European Commission for lacking clarity on its negotiating position, you risk missing the opportunity of demonstrating a shared position within the UK in areas where we are in agreement.

The UK Government's White Paper is an opportunity to set a new direction that cannot be missed. The risks associated with sticking to your red lines are clear and must be avoided.

I am copying this letter to the Michael Russell, David Lidington, as well as to David Sterling as Head of the Northern Ireland Civil Service.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark', followed by a period.

Mark Drakeford AM/AC
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Cabinet Secretary for Finance