10 DOWNING STREET
LONDON SW1A 2AA

14 January 2019

THE PRIME MINISTER

Dear President Tusk and President Juncker

I have spoken with you both and with a number of other European leaders over recent weeks. We share a desire that the agreement reached between us on the UK's withdrawal from and future relationship with the European Union should be successfully ratified. This letter summarises points which I have raised at the December European Council and in the weeks since.

The strong future partnership between the United Kingdom and the European Union described in our joint Political Declaration of 25 November 2018 is in the interests of all our citizens, and an important signal to the world of our intent to continue to work together for our shared prosperity and security, and also to promote and defend our common interests and values. This will not and cannot be the same relationship we have had as a member state: I am determined to deliver on the result of the 2016 referendum and the demand it represented for greater domestic control, and you must defend the balance of rights and obligations that are the unique preserve of member states.

I firmly believe that the deal we have struck is the best possible outcome given the principles of both sides. The Withdrawal Agreement secures the smooth and orderly withdrawal that we have committed to delivering - creating certainty for business, citizens and authorities, including through a comprehensive time-limited transition period, and by settling a long list of complex consequences of our exit from the EU's legal structures and institutions in a responsible manner. The Political Declaration describes a future relationship of unprecedented depth and breadth, covering trade and economic cooperation, law enforcement and criminal justice, and foreign policy, security and defence. It is inevitable that a deal of this importance and size has taken time and careful work between us. It is also right that it is being scrutinised carefully. The debate on the deal began again last week in the UK Parliament.

I am confident that there is widespread support for a broad and deep relationship between the EU and the UK, and for a responsible, orderly exit from the EU's legal and political framework. The deal is at risk, however, because of concerns in the UK Parliament about how we are delivering on our commitments in relation to Northern Ireland's border with Ireland. We know how difficult this part of the negotiation has been: while both sides were clear that we must deliver on our shared commitment to avoid a hard border, my priority was also to protect the integrity of the United Kingdom, while the EU understandably needed to safeguard the integrity of its single market and Customs Union. The agreement we reached represents a fair compromise. Still, some on the EU side worry that a future UK Government could use the threat of a return to a hard border as leverage in future negotiations. Some in the UK have the mirror worry that the backstop is evidence that the EU will not handle the negotiation of our future relationship energetically or ambitiously, or even that the EU will down tools altogether and leave the UK permanently in the backstop arrangements.

The first fear is entirely unwarranted. The Belfast (Good Friday) Agreement of 1998 and its successor agreements are an achievement the UK Government is deeply committed to sustaining, and that is the majority view in UK politics by an overwhelming margin. No UK Government would risk that progress, including by willingly allowing a hard border to re-emerge. It is not enough to proclaim this: we have put forward, and will continue to put forward, ideas and proposals that we believe are capable of resolving the issue in the context of the overall UK-EU relationship, or with minimal additional measures specific to Northern Ireland. No Prime Minister would use such a vital political and national issue as crude leverage in a trade negotiation: the protection of peace and political progress in Northern Ireland goes to the heart of who we are as a country.

After two years of detailed, and often tough, negotiations, I strongly believe the fear about the EU's intentions is unfounded too. The UK found the original backstop proposal unacceptable. The EU made significant moves in our direction in order to avoid the backstop risking the integrity of the UK. Some of these moves, coupled with the fact that the backstop would deliver few of the benefits we both seek from the broader future relationship, make it an uncomfortable position for both of us. I have heard from you and our fellow leaders the commitment and enthusiasm for making quick progress on the detailed negotiation of the relationship described in the Political Declaration, which would supersede the backstop.

The Political Declaration describes the relationship the UK and the EU actually want, but which needs a further process to turn into precise binding legal text. The Withdrawal Agreement describes an insurance policy for the Northern Ireland border that we are both determined to avoid using but which is set out in legal form today. This imbalance in status leaves many Members of Parliament concerned. This could be mitigated by changes to the backstop itself. Proposals for a way in which the UK could choose to exit the backstop unilaterally were it ever to come into force, or for a hard time limit on the duration of the usage of the backstop, have been raised and discussed in Parliament. We have also raised them previously in the negotiations. These did not come from a desire to impose border controls, or an irresponsibility for finding solutions. Instead they came from a concern to maintain an equal pressure on both sides to develop the future relationship and place a solution to the border on a permanent footing. As you know, since the suspension of the debate in my Parliament I have proposed a legal commitment to have our future partnership in place by the end of 2021 at the very latest.

The legal texts we have agreed of course already lay out significant reassurance on these issues. In particular, Article 1 of the Protocol that details the backstop says that "The Provisions of this Protocol are therefore intended to apply only temporarily, taking account of the commitments of the Parties set out in Article 2(1)". That Article in turn commits the UK and the EU "to use their best endeavours to conclude, by 31 December 2020, an agreement which supersedes this Protocol in whole or in part". I take this obligation very seriously. I know the European Council does too, given that in its December Conclusions it said very clearly (paragraph 3 and 4) that (a) the European Union has no desire to see the backstop come into force, and (b) if used, it should only be temporary, and replaced quickly by an alternative arrangement. The UK completely shares this resolve.

In order to reinforce this joint commitment to getting the future relationship settled energetically and quickly we should:

- agree that exploratory talks focused on delivering it can begin as soon as the Withdrawal Agreement is signed, which could in turn be immediately after the UK Parliament has voted in favour of the deal;

- recognise that these talks should cover all strands of the relationship in parallel, giving particular urgency to discussion of ideas, including the use of all available facilitative arrangements and technologies, for replacing the backstop with permanent arrangements that ensure its

underlying objectives continue to be met. These ideas need not replicate the provisions of the Protocol in any respect, and the UK is ready to work ambitiously and creatively with the EU on this. I would welcome your mutual commitment in this regard;

- confirm the legal connection between the Withdrawal Agreement and the Political Declaration, and making that link clear in the way we present the documents; and

- agree that if we are in a situation where we have negotiated a new agreement, but the backstop risks coming into force because ratification is not complete, we in the UK will do what is necessary to apply the new agreement provisionally pending ratification, rather than default to the backstop, and we expect the Commission to make the appropriate recommendations in relation to the EU too. Such provisional application is, of course, normal in trade agreements.

With these additional undertakings, plus all that we have already agreed, I am confident we will never have to use the backstop. We have said that we will use our best endeavours to have the future relationship in place by the end of 2020, and (separately) in the text of the Protocol we have agreed the same obligation to reach an agreement that supersedes it. I hope you agree that we should have completed this process by the end of 2021 at the very latest.

Finally, the discussion of the backstop has also exposed some misunderstandings about how it would work if it were ever to be used. The note published by the UK after consultation with the European Commission in November made clear that any checks needed for goods moving between Great Britain and Northern Ireland would be minimised, mainly carried out away from ports and airports, and performed by UK officials. The Protocol requires us both to use our best endeavours to facilitate trade between Great Britain and Northern Ireland, and that this requirement will be used in determining the practical arrangements, with the respective regulatory regimes in the UK and the EU taken into account. In that context, I can reconfirm that the UK Government will not let regulatory divergences develop between Northern Ireland and Great Britain without the consent of the political institutions of Northern Ireland, as per paragraph 50 of the December 2017 Joint Report. There are some other issues on which questions about the operation of the backstop have been raised, which are fundamental to its character and its relationship with the 1998 Agreement. The UK Government's view is that:

- the Protocol does not affect or supersede the provisions of the 1998 Agreement in any way whatsoever;

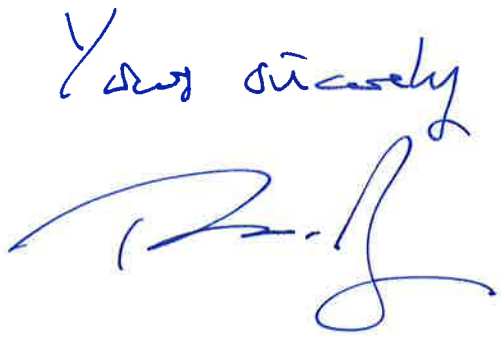
- the scope of alignment of Northern Ireland with EU rules is strictly limited, and the agreement of the United Kingdom would be required for the addition of any new legislative acts to the scope of the backstop; and

- it is for the United Kingdom to decide how it is represented in the governance of the Protocol.

The UK's interpretation of these issues is annexed to this letter: I would be grateful for your confirmation that you share it.

The clarifications and undertakings proposed in this letter are consistent with the letter and spirit of the deal we have reached, but would be further reassurance that the fears that some hold on both sides are misplaced. The challenges and opportunities the UK and the EU both face in the future mean that we must remain strong partners, good neighbours and close friends.

Yours sincerely



His Excellency Mr Jean-Claude Juncker

His Excellency Mr Donald Tusk

APPENDIX TO LETTER:

The UK's proposed joint interpretation of certain provisions of the Protocol on Northern Ireland attached to the draft Withdrawal Agreement is that:

- **the Protocol does not affect or supersede the provisions of the 1998 Belfast Agreement in any way whatsoever.** The Protocol has as a key objective the protection of the Belfast Agreement in all its parts. This includes full respect for the provisions regarding the constitutional status of Northern Ireland and the principle of consent, and the underpinning three-stranded approach. The Protocol does not alter in any way the arrangements under Strand II of the Belfast Agreement in particular, whereby areas of North-South cooperation in areas within their respective competences are matters for the Northern Ireland Executive and Government of Ireland to determine in accordance with their respective legal regimes. The safeguards and protections, including the cross-community provisions, set out in the Agreement and applying to North-South cooperation remain in place and unaffected;

- **the scope of alignment of Northern Ireland with EU rules is strictly limited.** The Protocol includes, in the circumstances in which the backstop came into effect, alignment in Northern Ireland with those rules that are strictly necessary to avoid a hard border on the island of Ireland and protect the 1998 Agreement. The scope of regulatory alignment covers a limited section of the rules of the Union internal market; and while by operation of the Protocol goods in Northern Ireland would have met all the requirements for free circulation within the Union, Northern Ireland would not be in the internal market of the Union. The Agreement is also clear that any new act that the Union proposes should be added to the Protocol will require the agreement of the United Kingdom in the Joint Committee. It will be for the United Kingdom to determine, in accordance with its own constitutional order, any role for the Northern Ireland Assembly and Executive, in accordance with this provision; and

- **it is for the United Kingdom to decide how it is represented in the governance of the Protocol.** The Agreement provides for an institutional framework within which to implement, monitor and review its arrangements. UK and EU representatives at these forums are for the parties respectively to determine. It will be for the UK to determine, in accordance with its own constitutional order, how the Northern Ireland Executive are represented in those forums where matters pertaining directly to Northern Ireland are discussed.