

THE RT. HON. THERESA MAY MP



HOUSE OF COMMONS
LONDON SW1A 0AA

8 December 2017

Dear Colleague,

Today we have reached agreement with the European Commission on the three important issues that we have been discussing in the first phase of the negotiations before the UK's departure from the European Union: citizens' rights, Northern Ireland, and the financial settlement. The details are set out in a joint report agreed by myself and David Davis, and by Jean-Claude Juncker and Michel Barnier on behalf of the European Commission.

On the basis of this report, the Commission has recommended that the European Council agree we have achieved sufficient progress and that we move to the second phase of the negotiations: our future partnership, including trade and security, and an implementation period to ensure a smooth and orderly Brexit. And Donald Tusk, the President of the EU Council, has recommended that the December Council allows the next stage of negotiations to proceed and that there should be quick progress on agreeing an implementation period.

I said after my Florence Speech that I would not make any further offer unless and until the EU moved too – that we should step forward together – and this is what the Commission is now proposing we do.

On Monday I decided that the agreement on offer was not good enough so we went back to the negotiating table. Since then I have secured a further change on citizens' rights and eight crucial changes on Northern Ireland, addressing the concerns raised by the DUP and many colleagues about the risks of divergence between Northern Ireland and the rest of the United Kingdom. I am now confident that this is a good deal for citizens, for taxpayers and for all parts of the United Kingdom.

Below is what we have agreed on the three main issues: the rights of British citizens living in the EU and EU citizens living in the UK, the financial settlement and arrangements for the Northern Irish border.

Citizens' rights

As I have always said, our goal has been to let both EU citizens in the UK and British citizens in the EU carry on living their lives broadly as before. The agreement we have reached secures that.

As I outlined in Florence, the rights of EU citizens here in the UK will be upheld by writing them into UK law, instead of reference to EU law enforced by the EU institutions, as the EU had argued for. This will be done through the Withdrawal Agreement & Implementation Bill which we will bring forward after we have completed negotiations on the agreement itself.

That law will be determined by our courts, and the EU will not be able to override them by making them refer questions to the European Court of Justice. Our courts will pay due regard to EU case law

as agreed at the point of exit to interpret that law as need be, just as they decide our law now with reference to international law where relevant, such as the UN Convention on the Rights of the Child. But the compulsory jurisdiction of the ECJ will have ended.

For a limited, non-extendable period (8 years), our courts will be able to choose to ask the ECJ for a legal view on a point of law that has not arisen before. But the decision on whether to refer to the ECJ will be for our courts and our courts alone and, having received the ECJ's legal view, our courts will determine the case, so we will once again control our laws. In practical terms, if the past is a guide we would not expect this to happen very often – it currently happens for two or three cases a year in this area of law. And this ability will be strictly confined to those citizens' rights as exercised under the withdrawal agreement by EU citizens settled here before we leave the EU and will not extend in any way beyond that.

In short, the ability of our courts to ask the ECJ for a view will be voluntary, time limited and very narrowly defined.

The Withdrawal Agreement will enable families who have built their lives together in the EU or the UK to stay together. It will allow the spouses, children and elderly parents of those protected by the agreement, who live in a different country when the UK leaves the EU, to reunite as a family at any time in the future. This will not apply to future spouses or other relatives.

We have agreed with the European Commission that we will introduce a new settled status scheme under UK law for EU citizens and their family members, covered by the Withdrawal Agreement. The scheme will provide a transparent, smooth and streamlined process, the criteria for which will be set out in the Withdrawal Agreement, but it will incorporate appropriate criminality checks. We have also discussed the issue of the 'specified cut-off date' carefully with Member States and citizens' groups in the UK. On this basis we have concluded that the cut-off date will be the date of our withdrawal to provide the greatest possible legal and practical certainty for those covered by the Withdrawal Agreement.

This agreement not only provides certainty about residence, but also healthcare, pensions and other benefits. It will mean that EU citizens who have paid into the UK system – and UK nationals who have paid into the system of an EU Member State – can benefit from what they have put in and continue to benefit from existing coordination rules for future contributions. Reciprocal healthcare rights will be protected, meaning those covered by the agreement will be able to continue to receive healthcare as they do now. And in relation to European Health Insurance Cards (EHICs), we have agreed to protect the rights of individuals who are in a cross-border situation at the point of our withdrawal and entitled to a UK EHIC. This includes, for example, tourists for the duration of their stay, students for the duration of their course and UK nationals resident in another Member State. We will discuss wider use of EHICs in the next phase of the negotiations.

The agreement also includes reciprocal rules to protect existing decisions to recognise professional qualifications, for example for doctors and architects.

These arrangements will only cover those people defined in the Withdrawal Agreement. Anyone arriving in the UK who does not fall in that category will be subject to the UK's future immigration regime, which we will set out in a future White Paper.

Financial obligations

The Government has said that we are a country that honours its obligations, and that is what we will do. We have agreed a fair settlement of commitments we have made while a member of the EU, in the spirit of our future partnership. It depends upon a broader agreement being reached – as I have said, nothing is agreed until everything is agreed – so if there is no agreement then our offer also falls away.

We and the European Commission have agreed the scope and assessed what falls within it, and based on that assessment we both expect the final number to come in significantly below many of the initial projections – and far less than the ongoing contribution we would have made if the UK had decided to remain in the EU. It follows a rigorous interrogation of claims by our negotiating team and I want to pay particular tribute to David Davis and our officials for their work, in particular securing the principles that will ensure a fair and reasonable valuation. Through these, we have agreed that the rebate will be applied to the settlement, and that our capital in the European Investment Bank will be returned decades earlier than the EU had originally proposed. Other technical work will continue.

The whole sum is, of course, money that we would have paid anyway had we stayed in the EU.

As we leave, and we pay off our commitments, this means there will be significant sums to spend on our priorities, including the NHS, which would otherwise have gone to the EU.

Northern Ireland

The joint report states that the terms of the withdrawal agreement must be fully consistent with the Belfast Agreement's provisions on Northern Ireland's constitutional status and the principle of consent.

As I first committed to in my Lancaster House speech, the Common Travel Area with Ireland which has been in operation since the 1920s will be maintained. We and the EU have pledged that there will be no hard border between Northern Ireland and Ireland. We want to see that avoided by the future partnership between the UK and the EU that we are confident we can negotiate in phase two, but if we do not achieve that we will look to negotiate specific solutions for the Northern Irish border.

If we do not achieve either of those outcomes, we will maintain full alignment – that is sharing the same policy goals even if we achieve them by different means – with those rules which support north-south cooperation under the terms of the 1998 Belfast Agreement. We will do this either at a UK-wide level or at a Northern Ireland-only level if there is cross-community consent for that (regulatory differences between Great Britain and Northern Ireland already exist in specific areas, such as those to control disease outbreaks, or relating to waterways or electricity networks). In either event, we will protect Northern Ireland's place in the internal market of the United Kingdom with full, unfettered access for Northern Ireland's businesses.

But we are confident it will not come to that. The best way to avoid a hard border between Northern Ireland and the Republic of Ireland is to negotiate the right trading relationship between the UK and the EU, and that is what we will now be able to do.

Summary

Together this constitutes a fair and equitable offer on the withdrawal issues, on the basis that nothing is agreed until everything is agreed. It should allow the European Council when it meets at the end of next week to agree to move on to talk about the future relationship in the next stage of negotiations.

I believe it is strongly in our interest to move to this next stage as soon as possible. If we are going to get the terms of our future relationship agreed before we leave, we need to get on to phase two now.

In parallel, we need to agree the implementation period that will ensure people and businesses only need to make one set of changes, giving firms the certainty they need to plan ahead – while enabling us to press on with negotiating and signing our own trade agreements with new partners.

And we need to provide EU citizens in this country and British citizens in the EU with reassurance so they can get on with their lives.

Most importantly of all, we need to demonstrate to the British people that we are making progress in carrying out their instruction to leave the EU and forge a new role for the United Kingdom in the world, and that we will do so in a smooth and orderly way.

With best wishes,

A handwritten signature in blue ink, appearing to read 'T. May', with a stylized flourish at the end.

The Rt. Hon. Theresa May MP