



T: 0300 244 4000

E: scottish.ministers@gov.scot

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

13th April 2017

Thank you for your letter on 29 March, I wanted to write in order to clarify some important points you raised in your letter as a basis for a discussion with you on how we move forward constructively from here.

The First Minister has said she wishes the Prime Minister well in the negotiations with the EU that lie ahead. I very much hope you will succeed in realising your ambitions for the terms of the UK's future relationship with the EU.

However, it is important to re-state the fundamental importance the Scottish Government places on membership of the European Single Market as distinct from the UK Government's ambition of having access – or partial access - to this market. Scotland's Place in Europe clearly sets out this distinction and the damage to Scotland's economy and society that will occur if Scotland's Single Market membership is jeopardised.

As you will be aware the Scottish Parliament has now agreed an independence referendum should be held once there is clarity over the outcome of the Brexit negotiations so that the people of Scotland have an informed choice over their future.

In relation to the specific points you raise regarding the proposals in *Scotland's Place in Europe*, there is every reason to suggest that with the necessary political will and commitment these issues could have been addressed. Indeed there were no insurmountable issues raised in the engagement between officials that took place over the last two months.

However, looking ahead, there must be adherence to the terms of reference of the JMC (EN) and for the devolved administrations to have the opportunity to meaningfully contribute to the negotiation process.

While there has undoubtedly been a number of meetings held through the JMC process I have repeatedly expressed my disappointment that the substance of those meetings has not

enabled proper discussion or engagement on strategic choices we face. The result is a negotiating position reached solely by the UK Government rather than what was set out in the terms of reference, namely to agree a UK approach.

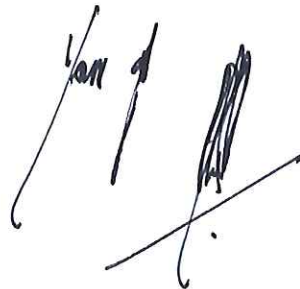
You will be aware of the frustration expressed by ministers from all three devolved administrations with the way the process has been carried out so far.

You are also aware from our telephone conversation on Wednesday 29 March that I do not concur with your view that we have reached agreement on the "large majority of subjects we have discussed in the past few months". Even a cursory examination of the agendas for the four JMC (EN) meetings held to date show that this is not the case. Therefore, whilst we welcome your commitment to "close engagement with the Scottish Government and other devolved administrations" we must reiterate our view that these should be meaningful, based on trust, openness and a genuine sharing of options and policy positions as well as data and must give real opportunities to influence the process.

It is moreover essential that, as the JMC (EN) terms of reference make clear, all four UK Governments should have oversight of the negotiations to ensure, as far as possible, that outcomes - negotiated and agreed in advance - are secured.

I understand that our officials are presently exploring the means to re-set the JMC (EN) with a view to rendering it useful and influential in the coming months and years. I look forward to the results of this exploration and hope that a meaningful forum can be established. Given the pressing timetable of UK-EU negotiations, it would be helpful if a JMC (EN) was held before the General Affairs Council endorses the EU's negotiating directives.

I would be very happy to expand on these issues when we meet to discuss. I have asked my office to arrange that meeting.

A handwritten signature in black ink, appearing to read 'Michael Russell', written over a horizontal line.

MICHAEL RUSSELL