

Mr Charles Michel
President
European Council
Rue de la Loi 175
1048 Brussels

9 December 2020

Dear President,

We are only few weeks from the end of the transition period and we don't know yet if we will have an agreement that will govern the future EU-UK relations. For the business community an agreement is essential, not only to mitigate the negative impact of the UK leaving the single market and the customs union but also as a solid platform to build our future cooperation. We are confident that an agreement is still possible and that everything must be done to achieve it in time.

Regarding Northern Ireland and Ireland, both parties must fully respect and implement the Withdrawal Agreement, including the protection of the Good Friday Agreement in all its parts. In this context we welcome the agreement in principle reached by the EU-UK Joint Committee and urge both parties to finalise all outstanding issues in order to ensure that the framework established by the protocol on Ireland and Northern Ireland is fully operational on 1st January.

In this difficult context, companies are doing the utmost to prepare for all possible scenarios. Due to the significant changes that will occur at the end of the year, regardless of the outcome of the ongoing negotiations, and the lack of certainty on our future relationship, we must prepare for potential disruptions. Therefore, we ask public authorities at national and EU level to put in place the necessary means to respond to unforeseen problems that may occur in the early weeks of 2021. This includes **establishing dedicated contact points/one stop shops** that companies and business organisations can use to address these problems both domestically through national authorities and at European level through relevant Commission services.

As time is running short, we urge the EU to put in place the necessary measures that would mitigate the impact of a potential no-deal scenario in the following areas:

The **free flow of personal data** is essential to the trade and investment partnership between the EU27 and the UK in all sectors of the economy. Therefore, we urge the EU and the UK to quickly work towards a robust mutual adequacy decision on personal data transfers. Until this decision is in force, a grace period to avoid any disruption to the flow of personal data should be mutually agreed. Moreover, the CJEU decision in the Schrems II case and subsequent European Data Protection Board (EDPB) Recommendations have created legal uncertainty with regards to standard contractual clauses, making a data adequacy decision even more urgent. In this context, it is also essential that the EU and the UK find a solution allowing the continuous transfer of Passenger Name Records between EU and UK-based air transport operators.



All EU **customs** rules will apply to trade with the UK as of 1st January 2021. This means that the complexity of the procedures that traders need to comply with will increase suddenly and substantially with or without a deal in place. Preparing for such an event without absolute certainty on the exact modalities is extremely difficult particularly for SMEs, many of which have never traded outside the single market. While governments' support to prepare companies for these changes is most welcome, we ask authorities in the EU and the UK to be pragmatic and act in good faith when customs-related errors and unwanted infringements occur after the end of the transition period.

The possibilities and conditions for EU and UK **air, rail, road and sea transport** operators to perform services between the EU and the UK largely depend on the outcome of the negotiations on the EU-UK future relations. In case of a deal, companies will only have certainty on the new rules at a very short notice, whilst under a no-deal scenario mutual market access will be restricted significantly. Therefore, the EU should put in place temporary measures to maintain basic connectivity for air, rail, road and sea transport between the EU and the UK after 1st January 2021.


On **financial services**, the EU and the UK committed in the political declaration on their future relationship to preserving financial stability, market integrity, investor and consumer protection and fair competition, whilst respecting their regulatory and decision-making autonomy. Thus, we welcome the Commission's equivalence decision from 21 September 2020 with respect to UK central counterparties (CCPs) and subsequent recognition decisions by ESMA of CCPs and the recent temporary equivalence decision for UK Central Securities Depositories (CSD) under CSDR. Together, these steps have provided much needed certainty for continued and uninterrupted access to these CCPs and CSDs by EU clearing members and EU firms. However, equivalence decisions are still outstanding in other critical areas of financial services, including in relation to UK regulated markets under EMIR Article 2a. We urge the Commission to conclude these equivalence decisions before the end of the transition period to smoothen the adaption of companies to the new situation.

Finally, the EU **Posting of Workers Directive** will no longer apply to the UK from 2021. Therefore, solutions are needed to ensure that posted workers can continue working until the end of their posting period or the end of their service contract. Moreover, an agreement on the **coordination of social security systems** which is as close as possible to the *status quo* is very important.

We believe that an agreement between the EU and the UK is within reach. In the meantime, we need to be prepared for any possible outcome.

Yours Sincerely,


Pierre Gattaz
President


Markus J. Beyrer
Director General