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Dear Prime Minister,

Protocol on Ireland/Northern Ireland – Exchange of Letters

1. I have looked at the Prime Minister's letter and the joint response from the Presidents of the Council and the Commission.
2. I agree that in the light of this response, the Council's conclusions of 13 December 2018 would have legal force in international law and thus be relevant and cognisable in the interpretation of the Withdrawal Agreement, and in particular the Northern Ireland Protocol, albeit they do not alter the fundamental meanings of its provisions as I advised them to be on 13 November 2018.
3. The Commission's assurances about its approach to the negotiation and the provisional application of the agreements containing the future relationship are also useful in making the *political* judgment as to the likelihood of the backstop coming into force or enduring for long should it do so.
4. Finally, the President of the European Council's confirmation that the backstop could only remain in place for as long as strictly necessary and the President of the European Commission's recognition that the trading arrangements provided by the backstop are "suboptimal" together with its confirmation of its determination to replace them with a subsequent agreement are wholly consistent with their limited EU law mandate under Article 50, which is widely believed to preclude the conclusion of wide-ranging agreements on permanent relationships with exiting countries.
5. As you know, it is my opinion, based on the factors set out in my letter of 13 November 2018, reinforced by the joint response, that the balance of risks favours the conclusion that it is unlikely that the EU will wish to rely on the implementation of the backstop provisions. It is therefore my judgment that the current draft Withdrawal Agreement now represents the only politically practicable and available means of securing our exit from the European Union.
6. Given the exceptional circumstances surrounding the vote on the Withdrawal Agreement and the Government's commitment to provide Parliament with information to assist it to understand the Agreement, I am content for this letter to be published.

RT HON GEOFFREY COX QC MP
ATTORNEY GENERAL