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House of Lords,
Westminster,
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Dear

I am writing to you as Head of Government at this late stage in the consideration of the UK's exit from the EU. I wish to urge that you carefully consider a possible basic contradiction within the EU-UK Withdrawal Treaty which has so far prevented a majority of British MPs approving it in its present form. Namely, that an Article 50 procedure to allow a Member State, in this case the UK, to leave the EU, has created a Withdrawal Treaty that according to the UK Attorney General could prevent the UK from ever leaving the Irish backstop.

As a politician I am sure you can understand that this basic contradiction is now at the core of the dispute between our countries. I wonder whether your own national legal advice agrees with that of our Attorney-General that there is "no internationally lawful means of exiting the Protocol's arrangement, save by agreement". He has had the courage to stick to his legal opinion even though he has exercised, and will continue to exercise, his political judgement as an MP that this contradiction will never have to be faced.

Unless this potential basic legal contradiction is grappled with at the highest political level it is hard to see the Withdrawal Treaty being agreed. I hope you will consider asking the ECJ to consider this issue as a matter of urgency. If they do agree with the UK Attorney General perhaps they could be asked to suggest legal wording for the Political Declaration to reinterpret the 'Irish backstop'.

If the ECJ does not agree then their judgement could help overcome British MPs' concern about the wording of the Withdrawal Treaty.

I am sending a copy of this letter to all EU Heads of Government, President of the European Council and the President of the Commission.

Yours sincerely

Lord David Owen
Former Foreign Secretary and EU negotiator in the Balkans

To all EU Heads of Government