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Lord Ricketts
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24 August 2020

Thank you for your letter dated 24 July, which covered arrangements in the event that it is not possible to reach an agreement with the EU on law enforcement and criminal justice, and in which you also sought my assessment of the impact of the *Schrems* judgement (C-311/18) for future UK-EU security cooperation. I hope the following may be helpful and informative in response to the questions raised.

Contingency arrangements in case of a non-negotiated outcome

In your letter you highlight the impact on operational capability should it not be possible to reach a further agreement with the EU that includes arrangements on: the sharing of real-time data on persons and objects of interest; criminal records exchange; biometric data exchange; and Passenger Name Records data exchange.

It is in everyone's interest that we reach an agreement that equips operational partners on both sides with capabilities that help protect citizens and bring criminals to justice, including in the areas mentioned above. We recognise the mutual operational value of these capabilities, and that is why such arrangements are included in the UK's published *Approach to Negotiations*. The UK has made clear its pragmatic proposal of cooperation that is in both of our interests, and we maintain this offer to reach an agreement that delivers capabilities similar to those we have now to protect the public.

We remain fully committed to reaching a balanced and reciprocal agreement with the EU and believe that an agreement can be reached in September and we will continue to negotiate with this aim in mind. However, as I noted in my recent evidence session and in my last letter, we must also continue preparing for all possible scenarios for the end of the transition period at the end of this year.

Overall, our planning for this range of possible outcomes is mature. In the event that it is not possible to reach an agreement, the UK will be ready to transition cooperation with EU Member States to alternative, non-EU arrangements. These alternative, non-EU arrangements are not like-for-like replacements for the EU capabilities, but they are largely

tried and tested mechanisms that we – and EU Member States – already use for cooperating with many close partners that are not in the EU. We continue to work closely with the operational community – including with the National Police Chiefs' Council via the International Crime Coordination Centre – to ensure readiness for the end of the year. In any scenario the UK will continue to be a global leader on security and one of the safest countries in the world.

Implication of the *Schrems* judgment (C-311/18) for future UK-EU cooperation

The judgment handed down by the European Court of Justice in the *Schrems II* case relates to the GDPR rules for transferring data outside the EU. It considered transfers between the EU and the US and annulled the partial EU-US adequacy decision known as the 'Privacy Shield'. The judgment has upheld SCCs in principle as a legal basis for transfers to third countries, but only where they can, in practice, provide an "essentially equivalent" level of protection to that provided under EU law. Data flows that are outside the scope of GDPR are not directly addressed by the judgment.

The Government is studying the ruling carefully. The Department for Digital, Culture, Media and Sport is leading the UK response and my officials are closely involved. As you know, the UK is in talks with the EU to secure adequacy decisions by the end of 2020, and the process is moving forward.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'James Brokenshire', written in a cursive style.

Rt Hon James Brokenshire MP