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Honorary Presidents: Lord Clinton-Davis, Lord Kinnock, Lord Patten,
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Richard Hay, Chair
15 Fox Close, Woking GU22 8LP
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To all members of AIACE UK

Dear all

The referendum result – and the practical issues of a leave decision:

- **the 2016 pay review**
- **medical screenings**
- **the branch constitution**
- **autumn General Meeting**

I write to cover these issues after a meeting of the UK committee on Monday morning.

The referendum result

Many, perhaps very many, of us are shocked and disappointed by the referendum result. Anger also has its place. Many worked hard in different ways and contexts to help towards a different outcome. We have seen a majority reject the enterprise to which we have devoted much of our working lives. We have seen values of honesty and respect rejected which we have held dear – and which we thought were characteristic of our fellow countrymen and women. The Leave vote seems have been fuelled not only by an often limited understanding of the European Union and the UK's place in it but also by deep factors which have their roots in the rejection of the political 'establishment', especially in a world of digital communication where there is too much information to moderate or absorb, and 'Like' becomes more important than 'Right'. Personally I am trying to come to terms with all this. This is compounded by the neglect of the Leave decision of the younger generations for whom Europe offers so much.

When we worked in the European institutions we did so with purpose and hope, and with all the skills and gifts we had. We did this not just because the UK was a member state, but because the enterprise was worthy. The UK's decision to withdraw has not reduced the value of Europe. We will presumably continue to wish it well, however hurtful it is that we (or our fellow nationals) will no longer be part of its progress.

It is futile to look for signs of hope before reactions have begun to crystallise. As I write that most certainly has not begun to happen. The political confusion we see offers no clear sense of direction. We do not at present know when, how or indeed whether, the UK will indeed apply to leave the EU.

AIACE as such continues to be an organisation concerned with the interests of its members and of other pensioners of the EU institutions. We do not seek a political or campaigning role; each of us remains entirely free to seek to influence opinion as we see fit, e.g. through bodies like the European Movement. Some are hoping to find a way for those UK citizens who wish to be able to retain the European nationality that the Lisbon Treaty conferred on all the EU's citizens; you will hear more of this in due course.

With our own vocation, AIACE UK is focussing on the practical consequences for EU institution pensioners living in the UK that will arise should the UK leaves, and only then. Until then, of course, nothing in our status changes. We will work on these matters with AIACE International; the president, Bernhard Zepter has assured us of his support (he has also offered us all some more general reflections about the situation, which are attached). The protection of these interests will depend on their defence by their European institutions in the negotiations with the UK. Therefore the first step we will need to take will be to respond to the messages from the Presidents of the European Commission and the Parliament which have been sent to all staff and at least some pensioners which not only recognise the contribution particularly of UK officials but also give reassurance about their status as EU staff (I attach copies of these messages). We will thank them for their message and state the need that in due time similar consideration be given to former officials in the negotiations for leaving.

The practical issues of a leave decision

Turning to the issues themselves, I stress again that until the UK actually formally leaves nothing changes in our pension arrangements or with the JSIS. When (or if) we do leave:

- the Staff Regulations apply fully to employees of any nationality; there were UK employees of the European Commission before the UK joined who had and have full rights; so the departure of the UK changes nothing in the rights UK nationals have towards the EU as former employees
- the Staff Regulations do however make distinctions in some areas about the way existing social security systems are applied between those resident within the EU and those outside it (pensioners who are UK nationals who continue to live in the EU should not be affected at all). Some pensioners at present living in the UK may want to move to an EU member state, if this is possible; to allow for such possibilities, we could explore with the Commission whether a window could be opened when places of origin might be changed with appropriate motivation
- the benefits of the Joint Sickness Insurance Scheme (to which we will continue to contribute) would not be altered and should continue to be available to UK-based pensioners. However, there may be a lower limit on reimbursements as these may be limited to those fixed for Belgium. (As an example, a visit/consultation with a medical specialist in the UK would be cut from a little over €212 to only €50; even a marked fall in the value of £ sterling/€ could not compensate for a reduction of this order). We will discuss this with the Commission to try to preserve what have been legitimate expectations or to find at least transitional arrangements
- similarly pensions paid to residents in the UK will continue to be paid by the EU on the basis of the Staff Regulations; in law, these are already paid for and fully funded (see note at the end)
- pension rights earned from 1.5.2004 will be unaffected by the UK's departure and will be at the Brussels/Luxembourg level via the exchange rate fixed annually on the last working day of June
- for pension rights earned before that date, the corrective coefficient for pension rights may lapse. This is because the Staff Regulations provide that this element is not applied to pensions paid outside the EU; all such pensions whenever earned are paid on the same basis as those earned after 1.5.2004. It is not easy to assess what the impact of this will be for us, because it depends on what the exchange rate does. In the 2015-16 year, the impact of the change would have been considerable; it will certainly be less for 2016-17, as the £/€ exchange rate is lower. We will however raise this aspect with the Commission to discuss its impact and whether protective or transitional measures might be needed to protect acquired rights and legitimate expectations
- an evident uncertainty is about taxation:
    - EU tax will continue to be deducted at source, because this is an essential element of the EU pay and pensions system defined in the Staff Regulations
    - at present, the Protocol on Privileges and Immunities (PPI) exempts our pensions from national taxation, because they are taxed at source. However the PPI will presumably lapse when the UK leaves (though some arrangement may be needed because I expect that the EU of 27 will retain some kind of presence in the UK, while decisions will be needed about the European Medical Agency and other EU organisations in the UK now)

- with no PPI, the UK could consider that EU pensions would then be liable to UK income tax, presumably assessed on the gross amount of the pension
- it is not likely that the EU would agree to exempt from EU tax pensions paid to residents of the UK; this would abandon a principle of the Staff Regulations and require discrimination according to residence; so far as we know the EU does not have double taxation agreements with any other country than Switzerland; pensioners living in non-EU countries other than Switzerland therefore have to pay national tax as well as EU tax
- we will therefore press the EU institutions to ask the UK to agree that all EU pensions paid in the UK (including to former EU staff who retire after the UK withdraws from the EU) should continue to be exempt from national tax as they will continue to be taxed at source
- this can readily be justified both by the need to avoid double taxation (the EU tax system is broadly comparable to that of the UK) and by legitimate expectation
- we believe that there is a precedent in UK tax practice for former employees of the League of Nations when this was wound up; and that the UK has many agreements with other countries to avoid double taxation; as the population and potential tax income involved is in national terms very small and would be set to dwindle, it seems reasonable to suppose that the UK would agree
- we intend drafting the content of such an agreement based simply on the present PPI.

This review shows that there are real issues that AIACE will need to discuss with the Commission (also seeking the support of the other institutions). This will take time; and we probably won't be able to get far until the UK applies to leave. Nor should AIACE seem to suggest that our rights – vital as they are – take precedence over much bigger matters. So we will need to live with uncertainty for many months. But please be assured that AIACE will take the steps needed to raise these issues and seek fair results.

We will also do our best to keep you informed during the process, so that you know how the issues evolve. We will use general and regional meetings, the web site, *CONNECT* and messages to get information out to all our members as best we can.

Annual review of pay and pensions 2016

- The annual Method of reviewing pay and pensions will not be altered by the referendum. The 2016 application of the Method is about to start. A major part of it for us in the UK is the 'remuneration exchange rate' for the salary year which starts each 1st July (the rate is that for the last day of June)
    - the €/£ rate from 1.7.2016 will be €1 = £ 0.82550 (replacing €1 = £ 0.70850)
    - while this rate is effective from that date, it will only be used from the moment when all the other components of the annual updating of salaries and pensions have been determined, towards the end of this year; then retrospective adjustments will be made
    - for pension rights earned before 2004 paid to those who have the UK as their place of origin, the new exchange rate will produce virtually no change, as the exchange rate and the corrective coefficient which applies to this part of a pension offset each other; however any variations resulting from cost of living or inflation would take effect
    - as the corrective coefficient does not apply to pension rights earned after 1.5.2004, there will be a net increase in the £ sterling value of these pensions rights. When the £ sterling rose against the € in 2014 and 2015, the £ sterling value of these pensions rights fell – quite considerably; as the value of £ sterling has now dropped against the € we now see some reversal of this situation
    - for each of us, the impact of the change in the exchange rate will therefore depend on the proportions of our pension rights which were earned before 1.5.2004 and after that date
- there will of course also be a review of cost of living differences between the UK and Belgium/Luxembourg over the last 12 months to end-June 2016 applying to all pensions (and

salaries). On the basis of the unofficial figures we have which may point to the results of this year's review, this may lead to a decrease of at least 1% in the UK corrective coefficient, as inflation in the UK continues to be lower than in Belgium/Luxembourg

- the last component of the pension review will be the changes in the real value of national civil service pay in a basket of countries, and we have no indication of what this may produce
- the last two factors will become known only towards the end of the year. The result of all these factors should be applied automatically by the December payment of pensions.

Preventive medical screening

An agreement has been signed with one UK provider of medical screening (BUPA); two others are virtually there; other providers may follow. The way is therefore now open for those with primary cover to apply for invitations for screening, and then to make appointments with a BUPA establishment. As soon as the other providers have concluded agreements we will let our members know. (Please note: as before, it is necessary to get an invitation for a screening before making the booking; also anyone whose screening invitation is more than six months old will have to apply for a new invitation via either PMO Contact, JSIS ONLINE or by phone.)

We are told that in the coming days the paper will be signed announcing that those with complementary cover living in the UK can also use the same system as full JSIS members.

Branch Constitution

A revised constitution was discussed and agreed at the AGM in Edinburgh (the exact drafting of a change agreed during the AGM's discussion was left to the committee to finalise). We take the occasion of this mailing to send you the final version of the constitution.

Autumn General Meeting

This is scheduled for Tuesday October 18, at Europe House (10.30 for 11.00). The speaker will be the BBC's Diplomatic Correspondent, James Robbins. As usual, there will also be a simple buffet lunch followed by a business meeting which would provide one occasion to give any possible updating on the issues explored above. Please note the date – a booking form will follow.

With our warm best wishes

Richard Hay

Enclosed:

- statements by the Presidents of the Commission and Parliament
- message from Bernhard Zepter
- the revised branch constitution

End note on funding of our pensions – this is only for the experts!

Some are aware that this subject is not totally straightforward. First: the Staff Regulations (art. 83) provide that ex-officials' pensions are charged to the EU budget and that they are guaranteed by all the member states collectively. Therefore what follows in no way affects the legal rights of UK-resident pensioners. Second: as part of the leaving arrangements we can suppose that there will be discussion between the UK and the 27 about the paying the future cost of pensions. The background is that the EU pension system from the beginning was constructed as a funded system i.e. one into which both employees' and employers' contributions were paid and which then earned interest to pay the pensions in the future when they became due. However, when the EU started, its staff were young, and their number was growing; the pension contributions vastly exceeded the cost of pensions, a situation which would clearly continue for decades. Therefore the member states decided not to finance the employers' contributions, but to simply record them in the EU accounts. When the UK leaves, the 27 member states will no doubt want the UK to contribute finance to cover its share of the future cost of staff pensions, however this may be calculated. The UK may contest this. I repeat; this is a matter between the UK and the 27; it does not affect our rights to the pensions we have earned.