

# European Scrutiny Committee

House of Commons, London, SW1A 0AA

Tel (020) 7219 3292 Email [escom@parliament.uk](mailto:escom@parliament.uk) Website [www.parliament.uk/escom](http://www.parliament.uk/escom)

From: Sir William Cash MP

6 May 2020

Jo Churchill MP

Minister for Prevention, Public Health and Primary Care

Department of Health and Social Care

39 Victoria Street

London SW1H 0EU

## **Covid-19: Authorisation procedure for export of Personal Protective Equipment (PPE) (Commission Implementing Regulations (EU) 2020/402 and 568) (41141)**

Thank you for your [Explanatory Memorandum](#) of 23 April 2020 on a [Commission Implementing Regulation](#) (2020/402) introducing an export authorisation scheme to prevent critical shortages in the supply of Personal Protective Equipment (“PPE”) needed to protect against Covid-19 infection within the EU.<sup>1</sup> The Commission Implementing Regulation expired after six weeks, on 25 April 2020. It has been replaced by a further [Commission Implementing Regulation](#) (2020/568) which extends the export authorisation scheme for a further 30 days (from 26 April 2020) and makes a number of modifications.<sup>2</sup> Both of these Commission Implementing Regulations apply to the UK during the post-exit transition period. Although your Explanatory Memorandum only concerns the first of the two Implementing Regulations, the questions we raise are relevant to both and we ask you to address both in your response.

The first Commission Implementing Regulation (2020/402) is one of the measures included in our [Report](#), *Covid-19 pandemic: the EU’s policy response and the implications for the UK*, which we published on 1 April 2020. We asked whether the Government agreed with the Commission’s assessment that

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<sup>1</sup> Commission Implementing Regulation (EU) 2020/402 of 14 March 2020 making the exportation of certain products subject to the production of an export authorisation.

<sup>2</sup> Commission Implementing Regulation (EU) 2020/568 of 23 April 2020 making the exportation of certain products subject to the production of an export authorisation.

existing stocks of PPE and manufacturing capabilities within the EU were insufficient to meet demand; whether it also agreed that the introduction of a prior authorisation requirement was a necessary and proportionate response to the Covid-19 epidemic; and how it would affect supplies of PPE within the UK, as well as UK businesses exporting PPE beyond the EU.

Your Explanatory Memorandum seems to accept the need for urgently required PPE to be kept within the EU and indicates that this would also be of benefit to the UK. To assist in our scrutiny of the Commission Implementing Regulations and their impact on the UK, we would welcome your assessment of the following matters:

- How effective the Regulations have been in reducing the gap between demand for and supply of PPE in the EU, and in the UK—we would particularly welcome further information on the proportion of UK PPE supplies sourced from within the EU and from outside the EU;
- Whether restrictions on the export of PPE under the Regulations have “led to the full and effective lifting of all forms of internal bans or restrictions” which some Member States unilaterally introduced to protect their own supplies of PPE;
- What impact the Regulations have had on UK exporters of PPE, including data on the number of authorisations granted or refusals made since 15 March 2020; and
- Whether important third country exporters of PPE have reciprocated by introducing their own restrictions on supplies to the EU and/or to the UK in response to the Regulations.

We note that the UK was not given advance notification of the first Commission Implementing Regulation (2020/402). We ask you to explain how the UK was made aware of the Regulation (which took effect on the day of its publication in the EU’s Official Journal), and whether the UK was consulted on or given advance notice of the amending Regulation (adopted on 19 March) or the second Commission Implementing Regulation (2020/568) adopted on 23 April). What mechanisms exist to ensure that the Government has adequate notice of EU laws which will apply to the UK during transition before they take effect?

The latest Commission Implementing Regulation (2020/568) includes a new requirement for Member States (including the UK) to consult the Commission on decisions granting export authorisations and to notify all authorisations granted or refused immediately so that the information can be made publicly

available. Do you consider that these additional requirements are helpful in ensuring an adequate supply of PPE throughout the EU and in promoting transparency as well as consistency in the application of the Regulation?

The latest Commission Implementing Regulation also refers (in its opening paragraphs) to other EU initiatives to ensure adequate provision of PPE throughout the EU, including joint procurement involving 25 Member States and a strategic “rescEU” stockpile of medical equipment under the EU’s Civil Protection Mechanism. We ask you to update us on both initiatives, indicating how much PPE and other medical equipment relevant to the Covid-19 pandemic the EU has secured by these means. We would welcome further information on UK involvement in, or contributions to, both schemes to date as well as your assessment of their value in ensuring an adequate supply of PPE in the UK in the future.

Finally, you state in your Explanatory Memorandum that the Commission Implementing Regulation/s will have “no impact” on the Protocol on Ireland/Northern Ireland or on the UK after transition as they are “time-limited” and so are not expected to be in force for long. It nonetheless remains the case that similar measures may be necessary in the future to cope with a resurgence in the Covid-19 virus or with a new pandemic threat. The parent Regulation ([Regulation \(EU\) 2015/479 on common rules for export](#)) on which these Commission Implementing Regulations are based will continue to apply in Northern Ireland under the Protocol beyond transition. We ask you to explain how this might affect trade in and supplies of PPE (or other products deemed to be “essential” and in need of protection under Article 5 of the 2015 Regulation) within the UK’s own internal market post-transition.

We look forward to receiving your response within 10 working days.

We are sending copies of our letter to the Chair (Rt. Hon. Jeremy Hunt MP) and Clerk (Huw Yardley) of the Health and Social Care Committee; the Chair (Angus MacNeil MP) and Clerk (Joanna Welham) of the International Trade Committee; the Chair (Simon Hoare MP) and Clerk (Nick Beech) of the Northern Ireland Affairs Committee; the Chair (Earl of Kinnoull) and Clerk (Christopher Johnson) of the Lords EU Select Committee; Kasey Tobin, your Departmental Scrutiny Coordinator; and Les Saunders and Donald Harris in the Cabinet Office.

**CHAIR**