

European Scrutiny Committee

House of Commons, London, SW1A 0AA

Tel (020) 7219 3292 Email escom@parliament.uk Website www.parliament.uk/escom

From: Sir William Cash MP

25 June 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 [letter of 10 June 2020](#) responding to the questions raised by the European Scrutiny Committee in its [Seventh Report](#) of Session 2019-21 and in my [letter of 6 May 2020](#) on the measures taken by the EU to prevent critical shortages in the supply of Personal Protective Equipment (“PPE”) in the early stages of the Covid-19 pandemic. I note that the Commission Implementing Regulations introducing a temporary export authorisation scheme have expired (the last one on 25 May 2020) and have not been renewed.¹ The Committee therefore has no further questions to raise on the Regulations themselves but would welcome your response on the following matters.

First, you accept that the UK was under a legal obligation to implement the Commission Implementing Regulations during the transition period provided for in the EU/UK Withdrawal Agreement but, it seems, the Government had no advance notification or sight of the measures before they were formally adopted by the Commission. Whilst the UK is not entitled to participate in the EU’s decision-making processes during transition, Article 128 of the Withdrawal Agreement does envisage circumstances in which the UK may exceptionally attend meetings or be consulted on draft Union acts to ensure their effective

¹ The [Government’s guidance on exporting personal protective equipment during coronavirus \(COVID-19\)](#) states: “Goods exported from the European Union after midnight on Monday 25 May 2020 will no longer require an export authorisation. The European Union export authorisation requirement for PPE products (Regulation 2020/568) expired on 25 May 2020 and will not be extended.”

implementation and application in the UK.² Do you consider that the UK should have had greater involvement in the process leading to the adoption of the Commission Implementing Regulations? I would also welcome a response to the broader question raised in my previous letter which asked you to explain 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.

Second, you tell us in your letter that “it would not be appropriate for the UK Government to comment on the content” of the Commission Implementing Regulations. The Committee recognises that the Government has limited means to influence or inform the content of EU laws that are applicable to the UK during the transition period, but can see no reason why you cannot comment on the policy choices made (in this case) by the Commission and their implications for the UK. It is fundamental to the process of scrutiny that the Government does engage with the substance of EU laws that are binding on the UK, even if only for a limited period, and we seek an assurance that you intend to do so.

Third, the Committee would welcome more meaningful engagement from the Government on the practical implications of future divergence in laws relating to trade in goods applicable to Northern Ireland under the Protocol on Ireland/Northern Ireland and the rest of the UK after transition. Using these Regulations as an example, if the Commission were to adopt similar measures to address a critical shortage in essential goods (in this case PPE) after transition, the Government would presumably have to apply the criteria set out in the Regulations to decide whether to authorise the export of PPE from Northern Ireland to the rest of the UK unless the Regulations included a specific exemption for Northern Ireland. Do you agree with this analysis?

Finally, you say that the UK has expressed an interest in participating in two EU procurement schemes concerning medicines and will consider taking part in other EU schemes “on a case by case basis”. You also confirm that the UK continues to participate in and contribute to the EU Civil Protection Mechanism during transition. The Committee would welcome further details as and when these procurement schemes are formally launched. We also ask you whether the UK has contributed medical equipment, including PPE and ventilators, to the rescEU stockpile and whether the UK has made any call on this stockpile to manage shortages of PPE in the UK during the pandemic.

² See Article 128(5) and (7) of the [EU/UK Withdrawal Agreement](#).

I am sending copies of this 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