



Rt Hon. Jacob Rees-Mogg MP
Minister for Brexit Opportunities and Government Efficiency
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18 May 2022

Dear Jacob,

UPDATE ON JULY IMPORT CONTROLS ON EU GOODS

Thank you for your letter of 28 April 2022, which was considered by the European Affairs Committee at its meeting of 17 May 2022.

The introduction of import controls on EU goods entering Great Britain is a key area of interest for the European Affairs Committee, and was covered at length in our December 2021 report, 'One Year On: Trade in Goods between Great Britain and the European Union'. The Committee has therefore asked me to write to you with a number of questions arising from the Government's announcement that it will not be introducing the remaining import controls this year, as set out in your letter to us.

The rationale for the decision

The Committee notes that you cite the fallout of the Ukraine war and wider pressures on the cost of living as the primary drivers of the Government's decision not to introduce further controls this year. Although the Committee's report previously concluded that there should be no further delays, we recognise the changing circumstances since December that have driven the Government's decision. We note, though, that the Government's response to our report, received on 16 February, stated that it intended "to implement all remaining border controls with the EU as set out in the EU-GB Border Operating Model and previously announced." Though the timing of this statement predated the Russian invasion of Ukraine, it came after energy prices began to rise and affect the cost of living. Nor is this the first time that the Government has insisted it will implement controls on time before changing course; in our inquiry, we heard that the repeated pattern of delay had undermined business confidence in the Government's timetable.

- **As the Government reviews its plans for the introduction of import controls, how will it ensure that businesses can trust that the Government's new timetable, once announced, will be adhered to?**
- **Was the state of Government preparedness a factor in the decision not to introduce import controls this year?**

The Committee has also noticed that there are key differences between this decision and previous delays to the timetable. We note that your letter states that the Government will be reviewing "how" controls will be introduced, as well as "when". We also note that, at 18 months, this delay is much longer than the previous delays (which were mostly between 3 and 6 months). We also

note that the introduction of import controls is now explicitly linked to the Government's longer-term plans for a more light-touch and digitised border (plans which this Committee welcomed in its report). We look forward to further details when the Government publishes its Target Operating Model in the autumn.

- **Can you confirm that this latest decision is not simply another delay, and instead reflects a more fundamental change in the Government's approach to import controls?**

Asymmetry at the GB-EU border

In the wake of the previous delay, concerns were raised by some businesses that an "asymmetric" border could put GB exporters at a competitive disadvantage, as they faced more onerous controls than EU exporters. At the time, the Government responded to these concerns by stressing that this situation was only temporary, as the controls would be introduced shortly, an argument with which this Committee expressed some agreement in its report. However, the asymmetry between GB and EU exporters is now set to last for a much longer period.

- **In the light of the Government's decision not to include controls until at least the end of 2023, what steps will it take to mitigate the impact on GB exporters of the asymmetric implementation of checks and controls at the GB-EU border?**

This Committee has previously urged the Government to seek a further agreement with the EU to reduce the burden of SPS controls, particularly on exporters, including in a recent letter to the Foreign Secretary (dated 29 April 2022).¹ With this latest decision, the UK is now effectively applying similar rules to imports from the EU as if a further SPS agreement was in place, but without obtaining for our exporters the easements that such an agreement would provide.

- **Do you agree that, while unilateral easements to SPS imports may have some benefits, it would be preferable to reach an agreement with the EU so that importers and exporters alike can benefit from lighter-touch controls?**

Physical infrastructure at ports

This decision means that port authorities have spent considerable time and money on preparing new physical infrastructure for import controls, which will now not be used for 18 months, if at all. The Committee notes that representatives of the ports have called for compensation for this. The Government itself has also invested considerable money in supporting these preparations. In the Government response to our report, we were told that as of December 2021, the Government had disbursed £95.5m in grants from the Port Infrastructure Fund to support spending on port infrastructure, that the Department for Transport had spent a further £292.2 million on inland border infrastructure, and that HMRC had spent a further £77 million on inland border facilities.

- **Does the Government intend to compensate port authorities for the resources they have invested in physical infrastructure that now may not be needed?**

¹ Letter from Lord Kinnoull to the Foreign Secretary, dated 29 April 2022: <https://committees.parliament.uk/publications/22106/documents/164126/default/>

- **How much in total did the Government spend on new physical infrastructure in preparation for the now defunct July 2022 deadlines, and to what extent was this expenditure wasted in the light of the new plans?**

Biosecurity

The Committee notes that concerns have been raised in some quarters over the potential animal health, food safety and biosecurity implications of the decision not to introduce SPS checks this year, particularly now that the UK is outside EU veterinary surveillance structures.

Both the British Veterinary Association and the National Pig Association have raised specific concerns over African Swine Fever, which is widespread in parts of Europe.² In addition, the Government website warns that bluetongue virus, which affects cattle, is “circulating widely” in France and Belgium, and “could also spread into the UK if infected animals, or germinal products, are imported from countries where bluetongue is circulating.”³ According to the Financial Times, an imported German cow was fortuitously discovered last year to have Bluetongue virus when it was sent for slaughter in Britain.⁴

The Committee also recalls comments made by Sam Lowe, then a Senior Fellow at the Centre for European Reform, during its previous inquiry into these matters:

“It is also important to take a step back and ask why these controls exist in the first place. Why do most countries impose some form of checks on products from outside, particularly on products of animal origin? Why are Sanitary and Phytosanitary controls so intrusive? Why do they nearly always happen at the border? It is because you are guarding against pestilence and disease.”⁵

- **In the absence of the remaining SPS controls, what alternative steps is the Government taking to safeguard the UK’s biosecurity and prevent the entry of dangerous, contaminated or illegally smuggled SPS products into the UK, particularly now that the UK is outside EU veterinary surveillance mechanisms?**

International legal obligations

The decision also raises anew the question of the UK’s international legal obligations at the World Trade Organization (WTO). In reference to the last decision to delay, in September 2021, the Government told this Committee that it was confident in the UK’s compliance, stressing in particular that this was merely a “short, further time-limited delay to some controls”. Indeed, this Committee’s report concluded that “so long as the situation is time-bound, there is a low risk of adverse legal consequences flowing from this delay. We remain to be convinced, however, that this would remain the case if the status quo persisted indefinitely, without these checks and controls being introduced.”

² Statement by the British Veterinary Association, 28 April 2022: <https://www.bva.co.uk/news-and-blog/news-article/vets-say-government-decision-to-delay-import-checks-requirement-by-up-to-18-months-flies-in-the-face-of-common-sense/> ; Statement by the National Pig Association, 30 April 2022: http://www.npa-uk.org.uk/NPA_warns_of_ASF_risk_from_Government_decision_to_abandon_checks_on_EU_imports.html

³ Department for Environment, Food and Rural Affairs, ‘Bluetongue: how to spot and report the disease’, 11 August 2021: <https://www.gov.uk/guidance/bluetongue>

⁴ Financial Times, ‘UK farmers sound alarm on lack of border checks’, 10 May 2022: <https://www.ft.com/content/35f54034-6551-49d9-bf36-ed463477cbca>

⁵ European Affairs Committee, Oral Evidence: Trade in Goods, 19 October 2021, Q7: <https://committees.parliament.uk/oralevidence/2861/pdf/>

Now, however, the Government has delayed these controls for much longer. While we note that the new regime will apply equally to goods from the EU and the rest of the world when it is eventually introduced, we are concerned that the unequal treatment of EU and non-EU imports in the 18 month interim could increase the risk of legal challenge at the WTO.

- **Is the Government confident that this latest, longer delay is compliant with its international legal obligations at the World Trade Organization, and that the risk of legal challenge remains low?**

Parliamentary scrutiny

The Committee welcomes your promise to keep Parliament informed of how the Government's work in this area is progressing. We request that you write promptly to this Committee when you have any updates to announce, particularly when the Target Operating Model is published.

We would welcome a response to our letter within the usual ten working days.

I am copying this letter to Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs; Rt Hon James Cleverly MP, Minister for Europe and North America in the Foreign, Commonwealth and Development Office; Rt Hon Michael Ellis QC MP, Paymaster General in the Cabinet Office; Sir William Cash MP and George Wilson, Chair and Clerk of the European Scrutiny Committee in the House of Commons; Dame Meg Hillier MP and Richard Cooke, Chair and Clerk of the Public Accounts Committee in the House of Commons; Les Saunders, EU Document Scrutiny Manager, and Laura Selling, Cabinet Office.

Yours sincerely,



Lord Kinnoull

Chair of the European Affairs Committee