

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

3 September 2020

Victoria Prentis MP
Parliamentary Under-Secretary of State
Department for Environment, Food and Rural Affairs
Seacole Building
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8280/20: Commission Communication — A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system (41271)

We have considered your Explanatory Memorandum and Supplementary Explanatory Memorandum on the above document.

Regrettably, we are disappointed in the quality of your EM and SEM, which fall below the level that we require. Our concerns and outstanding queries are outlined below.

The reality is that the Strategy sets out a clear policy direction including a strong likelihood of legislative changes which will need to be implemented in Northern Ireland. You note only the possibility that changes might be required and do not give us any examples of the areas in which legislative change is envisaged. Furthermore, your tone suggests that the Government will not engage in this EU policy until any legislative proposals emerge even if UK interests are at stake.

Our assessment is that the Strategy either explicitly or implicitly suggests amendments to the following pieces of legislation either falling within Annex 2 of the Protocol or referred to in legislation included in Annex 2:

- Sustainable Use of Pesticides Directive¹ (while the Directive is not listed in Annex 2 of the Protocol, it supplements² the Plant Protection Products Regulation, which makes reference to it regarding the concepts of “safe use” and “integrated pest management”);
- Plant Protection Products Regulation;³
- Live animal transport Regulation;⁴
- Animal slaughter Regulation;⁵
- Feed additives Regulation;⁶
- Food contact materials Regulation;⁷
- Agricultural markets Regulation;⁸
- Fisheries and aquaculture markets Regulation; and⁹
- Food Information for Consumers Regulation¹⁰

Clearly, other legislation included in Annex 2 of the Protocol may be affected, and it is also possible for both the UK and EU to agree to add new legislation to the Protocol.

We would welcome your view on our assessment as to the list of legislation which will likely be amended as a consequence of the policies set out in the Strategy and which also fall within the scope of Annex 2 of the Protocol. If you

¹ [Directive 2009/128/EC](#) establishing a framework for Community action to achieve the sustainable use of pesticides.

² Article 6(3) of the Withdrawal Agreement provides that references to provisions of Union law made applicable by the Agreement shall be understood to include references to the relevant Union acts supplementing or implementing those provisions.

³ [Regulation \(EC\) No 1107/2009](#) concerning the placing of plant protection products on the market.

⁴ [Regulation \(EC\) No 1/2005](#) on the protection of animals during transport and related operations.

⁵ [Regulation \(EC\) No 1099/2009](#) on the protection of animals at the time of killing.

⁶ [Regulation \(EC\) No 1831/2003](#) on additives for use in animal nutrition.

⁷ [Regulation \(EC\) No 1935/2004](#) on materials and articles intended to come into contact with food.

⁸ [Regulation \(EU\) No 1308/2013](#) establishing a common organisation of the markets in agricultural products.

⁹ [Regulation \(EU\) No 1379/2013](#) on the common organisation of the markets in fishery and aquaculture products.

¹⁰ [Regulation \(EU\) No 1169/2011](#) on the provision of food information to consumers.

do not agree, please explain with details and, if you do agree, we ask you to explain why this important information was excluded from your EM and SEM.

You indicated in your SEM that an analysis of how the proposed changes will impact Northern Ireland business can only be made once the EU has published draft legislation. We acknowledge that there is insufficient detail to determine what the precise impact in Northern Ireland and GB of any changes to the rules might be. We consider that the direction of travel, though, is unambiguous in several instances and is sufficient to identify potential policy implications. It is evident that the Commission seeks, for example, to make substantial changes to the regulatory framework on pesticides and that would inevitably affect, as a minimum, the Northern Irish market in such products themselves and in products treated by them. Furthermore, the Commission is clear that it wishes to encourage a wider move towards safer pesticides among its trading partners.

Through a separate EM,¹¹ you have already provided some analysis on potential changes to pesticides requirements. Similarly, the Department of Health has also identified¹² Government concerns with the Commission's suggestions on Front Of Pack nutrition labelling. These examples demonstrate that the Government is capable of setting out a position on suggested initiatives in this Strategy, identifying potential policy implications for the UK before draft legal texts are proposed by the Commission.

We therefore ask that — having identified all of the initiatives within the Strategy with likely, and potential, policy implications for all, or part, of the United Kingdom — you provide us with sufficient analysis to enable us to fulfil our scrutiny responsibility. It would be helpful if you could identify any initiatives on which you intend to engage with the EU institutions at an early stage while policy is being developed, rather than simply waiting for the respective legislative proposals.

Finally, you make reference in your SEM to the EU's obligation under Article 15(3)(b) of the Ireland/Northern Ireland Protocol to inform the UK of any "planned" EU acts within the scope of the Protocol, an obligation which is to be operated through the Joint Consultative Working Group. To the best of our knowledge, that Group is yet to meet, but we would welcome information from you on that point.

¹¹ Explanatory Memorandum dated 4 June 2020 concerning COM(2020) 208, Commission Report: Evaluation of Regulation (EC) No 1107/2009 on the placing of plant protection products on the market and of Regulation (EC) No 396/2005 on maximum residue levels of pesticides.

¹² Explanatory Memorandum dated 10 June 2020 concerning COM(2020) 207 final, Commission Report regarding the use of additional forms of expression and presentation of the nutrition declaration.

We also note that an EU act could be “planned” from its inception as a policy idea — such as in a Strategy such as this — or it could be “planned” in the form of a Commission proposal, or it could even still be “planned” immediately prior to formal adoption.

- Do you accept that the term “planned EU act” is ambiguous and that it would be desirable for the Government to maintain its own system of oversight of such acts and, if so, what is that system?
- What joint mechanisms have been put in place to support the EU’s obligation?
- Has the EU yet informed the UK of any such planned EU acts?
 - If so, of what nature have those planned acts been and have you or the EU published that list or do you intend to do so?
 - If not, is the UK confident that, since the UK’s withdrawal from the EU, the EU has not developed any plans for EU acts falling within the scope of the Protocol?

We would normally expect a response within ten working days. In the expectation of a comprehensive response requiring substantial analysis and engagement with other Departments, we ask for a response within four weeks.

We are copying this letter to Neil Parish MP, Chair of the Environment, Food and Rural Affairs Committee and Ian Bradshaw, Clerk of the Committee; Simon Hoare MP, Chair of the Northern Ireland Affairs Committee and Nicholas Beech, Clerk of the Committee; Rt Hon. Jeremy Hunt MP, Chair of the Health and Social Care Committee and Huw Yardley, Clerk of the Committee; Rt Hon. Hilary Benn MP, Chair of the Future Relationship with the EU Committee and Gordon Clarke, Clerk of the Committee; the Earl of Kinnoull, Chair of the House of Lords EU Committee and Christopher Johnson, Clerk of the Committee; your Departmental EU Scrutiny team; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR