

# European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

24 September 2020

Ranil Jayawardena MP  
Parliamentary Under-Secretary of State  
Department for International Trade  
King Charles Street  
London SW1A 2AH

## **Proposal for a Regulation on the application of EU tariff rate quotas and other import quotas (COM(20) 375) (ESC number 41467)**

The European Scrutiny Committee has considered the [proposed Regulation](#) on the application of EU tariff rate quotas and other import quotas under the Withdrawal Agreement Protocol on Ireland/Northern Ireland and your [Explanatory Memorandum of 4 September 2020](#). We understand that the purpose of the proposed Regulation is to resolve possible ambiguities in the interpretation and application of the Protocol arising from the fact that Northern Ireland remains part of the UK's customs territory but, unlike the rest of the UK, is bound to apply EU customs laws as if it were part of the EU's customs territory when the post-exit transition period ends on 31 January 2020.

The proposed Regulation appears to be consistent with the Government's position (set out in its [Command Paper](#) on *The UK's Approach to the Northern Ireland Protocol*) that Northern Ireland is an integral part of the UK's customs territory and will benefit from any preferential tariffs and quotas negotiated by the UK with third countries. **Should we infer from this that the Government welcomes the proposal and considers that the clarification it provides is helpful in understanding how the Protocol will apply from 1 January 2021?**

As you state in your Explanatory Memorandum, the proposed Regulation provides that the EU's tariff rate quotas and other import quotas will only be available for goods released into free circulation in the EU customs territory (comprising the 27 EU Member States), not Northern Ireland. You add that "the full implications of this for UK trade will not be known until the wider negotiations on the implementation of the Protocol have concluded". It is not clear

why this should be the case. **Would we be right to infer that the wider negotiations you refer to concern the decision yet to be taken by the EU/UK Withdrawal Agreement Joint Committee determining which goods brought into Northern Ireland from outside the EU are “at risk of subsequently being moved into the Union” and thus subject to EU customs duties?<sup>1</sup> Do you anticipate that the application of these criteria may create additional administrative burdens for trade in goods between GB and Northern Ireland which have been imported from a third country?**

We note that you have consulted the Devolved Administrations on the proposed Regulation but provide no indication of their views. **We assume that the Northern Ireland Executive in particular would be interested in any impact that the approach set out in the proposal would have on goods imported by Northern Ireland and on trade in those goods between Northern Ireland and GB and Northern Ireland and the EU, as well as the implications for consumers and businesses in Northern Ireland. We would welcome further information on their position. We would also be interested to hear why you do not intend to carry out a wider stakeholder consultation, especially if there is some doubt as to how the proposed Regulation may affect UK trade.**

**Finally, we ask whether you accept that the Regulation (if adopted) will apply “to and in the United Kingdom in respect of Northern Ireland” on the basis set out in recital (10) of the proposal (which refers to Article 5(3) and (4) and Article 13(3) of the Protocol), given that Regulation is neither listed in Annex 2 to the Protocol nor amends or replaces an EU act referred to in the Protocol. What, in your view, would be the correct mechanism for the adopted Regulation to apply to and in Northern Ireland?**

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

We are copying this letter to the Chair (Simon Hoare MP) and Clerk (Nick Beech) of the Northern Ireland Affairs Committee; the Chair (Angus MacNeil MP) and Clerk (Joanna Welham) of the International Trade Committee; the Chair (Rt Hon Hilary Benn MP) and Clerk (Gordon Clarke) of the Committee on the Future Relationship with the European Union; the Chair (the Earl of Kinnoull) and Clerk (Stuart Stoner) of the EU Select Committee in the House of Lords; Edwina Osborne and Stephen Booth, your Departmental Scrutiny Coordinators; and Les Saunders and Donald Harris in the Cabinet Office.

**CHAIR**

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<sup>1</sup> See Article 5(2) of the Protocol.