

European Scrutiny Committee

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From: Sir William Cash MP

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Northern Ireland Protocol: Changes to EU alcohol duty legislation

As you will be aware, the EU has recently agreed certain amendments to its legislation on excise duties, in particular the Alcohol Duty Structures Directive and general arrangements for excise duty, including the Excise Movement & Control System.¹ We understand the changes, to take effect mostly from January 2022, relate in particular to the maximum permitted alcohol content of low-strength beer; the option for countries to apply a reduced rate to different types of alcoholic drinks made by small businesses; and a new certification system for such “small independent producers” to make it easier for them to sell their products at a reduced rate under the applicable legislation in other EU Member States.

In light of the continued, dynamic application of EU excise legislation in Northern Ireland foreseen under the Protocol on Ireland/Northern Ireland (the Protocol) in the Withdrawal Agreement beyond the end of the transition period on 31 December this year, these changes are still directly relevant for the UK. We note in particular that the clauses of the Internal Market Bill relating to the Protocol would not give Ministers the power to alter or dis-

¹ We are referring in particular to Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast); Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (recast); Council Regulation (EU) 2020/261 of 19 December 2019 amending Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic registers; and Council Directive (EU) 2020/1151 of 29 July 2020 amending Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages.

apply its provisions relating to the effect of EU excise duty legislation in Northern Ireland.

While the recent EU-level legislative changes appear relatively technical, the negotiations between EU Member States lasted well beyond the timetable envisaged by your predecessor in his letter of 13 December 2018, at which point he expected “agreement [...] in early 2019”. We also note that the Government, in December 2019, voted in favour of the sub-set of the amendments related to the general arrangements for excise duty, while discussions on alcohol duty continued until their formal adoption in July this year.

In light of this, we are writing to request:

- the Government’s assessment of the implications of the recent EU excise duty reforms for Northern Ireland under the Protocol, and in particular whether there are any elements which the Government believes are detrimental or otherwise of concern, especially in respect of Northern Ireland’s unfettered access to the UK’s internal market when the Protocol takes effect;
- more generally, whether the Government sees any need for particular adaptations to or derogating measures from EU excise legislation for Northern Ireland under the Protocol, by means of a Decision of the UK-EU Joint Committee or by similar means to the unilateral powers contained in the Internal Market Bill; and
- what, if any, policy changes the Government envisages making to alcohol duty arrangements in Northern Ireland as a result of the new flexibilities that will take effect under EU law from January 2022, in particular with respect to the certification process for small producers and the new small producers’ duty relief schemes.

More generally, as you will be aware from our correspondence with your colleague, the Financial Secretary to the Treasury, the Committee remains very concerned about the lack of information about the practical implementation of Article 8 of the Protocol and how EU VAT and excise duty legislation will be applied in Northern Ireland and to its trade with the rest of the UK from 1 January next year. In light of the European Commission’s ongoing preparations on further legislative proposals to revise the rules on tobacco, energy and distance selling of excise goods, all of which may also apply in Northern Ireland in due course, we will want to question the Government in due course about its engagement with the EU to ensure that any such reforms take into account the interests of Northern Ireland and the UK as a whole.

I am copying this letter to Simon Hoare MP, Chair of the Northern Ireland Affairs Committee and Nick Beech, Clerk of that Committee; to Lord Kinnoull, Chair of the House of Lords EU Select Committee, and Chris Johnson, that Committee's Clerk; to Victor Peluola at your Department; and to Les Saunders in the Cabinet Office.

CHAIR