

European Scrutiny Committee

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From: Sir William Cash MP

3 December 2020

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

Thank you for [your letter of 9 November 2020](#) concerning a [proposed Regulation](#) on the treatment of EU tariff rate quotas under the Withdrawal Agreement Protocol on Ireland/Northern Ireland. Under the proposed Regulation, only goods released into free circulation in the territory of the EU's 27 Member States, *excluding* Northern Ireland, would be eligible for these quotas. As we understand it, the legislation is intended to resolve possible ambiguities in the interpretation and application of the Protocol which stem from the fact that Northern Ireland is part of the UK's customs territory but, unlike the rest of the UK, will remain bound by EU customs laws as if it were part of the EU's customs territory when the post-exit transition period ends on 31 December 2020.¹ Without this legislation, the European Commission fears that goods which do not count towards fulfilment of the EU's quotas might be routed through Northern Ireland for onward movement and free circulation within the EU Single Market.

There is a degree of frustration in your letter that the Committee continues to raise questions which you consider you have adequately addressed in previous correspondence. The reason we do so is because we do not fully understand the nature of the Government's objection to the proposed Regulation. As we have stated in our earlier Reports, the proposed Regulation appears to be consistent with the approach set out in the Government's [Command Paper](#) on *The UK's Approach to the Northern Ireland Protocol*² that Northern Ireland will remain an

¹ Article 4 of the Northern Ireland Protocol states that Northern Ireland is part of the customs territory of the United Kingdom. Article 5(3) of the Protocol provides that EU customs laws apply "to and in the United Kingdom in respect of Northern Ireland".

² Command Paper 226, *The UK's Approach to the Northern Ireland Protocol*.

integral part of the UK's customs territory after transition and benefit from any preferential tariffs and quotas negotiated by the UK with third countries.³

It is clear from the information you have shared with us so far that the Government's position on the proposed Regulation is bound up with wider discussions in the Withdrawal Agreement Joint Committee on Article 5 of the Protocol and the application of the criteria on "at risk" goods which determine whether EU customs duties are due on goods considered to be at risk of moving from Northern Ireland into the EU Single Market. The problem you identify in your letter is that the standard EU tariff rate would apply to goods entering Northern Ireland from outside the EU rather than a reduced or zero tariff rate as the goods would not qualify for the EU's tariff rate quotas. You indicate that this might have a negative effect on the competitiveness of supply chains operating in the island of Ireland. It would greatly assist us if you could:

- confirm that this is the basis of your objection to the proposed Regulation;
- share with us your assessment of the potential costs for businesses in Northern Ireland;
- indicate whether you consider that it would be legally possible for Northern Ireland to benefit both from the UK's *and* the EU's tariff rate quotas; and
- explain whether this is a policy objective the Government supports.

Finally, you suggest that we may wish to address our questions (variously) to the Chancellor of the Duchy of Lancaster and the Chancellor of the Exchequer. As you will appreciate, our questions are addressed to the Government and we trust that cross-Whitehall coordination mechanisms are sufficiently connected and robust to deliver a unified Government position.

We look forward to receiving a response at the earliest opportunity.

I am 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

³ See our [Twenty-second Report](#) and our [Twenty-sixth Report](#) of Session 2019-21.