

European Scrutiny Committee

House of Commons, London, SW1A 0AA

Tel (020) 7219 3292 Email escom@parliament.uk Website www.parliament.uk/escom

From: Sir William Cash MP

9 December 2020

Rt Hon. Greg Hands MP
Minister of State
Department for International Trade
King Charles Street
Whitehall
London SW1A 2AH

WTO Airbus-Boeing dispute: Commission Implementing Regulation (EU) 2020/1646 (ESC number 41654)

Thank you for your [Explanatory Memorandum of 24 November 2020](#) on a [Commission Implementing Regulation](#) which gives effect to the decision taken by the WTO Dispute Settlement Body on 26 October 2020 authorising the EU to impose countermeasures—in this case retaliatory tariffs—on US goods up to a value of US\$ 4 billion annually as part of the EU’s long running dispute with the US on subsidies for Airbus and Boeing.

In an [announcement](#) made earlier today, the Secretary of State for International Trade (Rt Hon. Elizabeth Truss MP) said the Government would be “suspending retaliatory tariffs resulting from the Boeing dispute in an effort to bring the US towards a reasonable settlement” while “reserving the right to impose tariffs at any point if satisfactory progress towards an agreeable settlement is not made”. The suspension would take effect from 1 January 2021 (the date on which the UK ceases to be bound by EU law) with a view to de-escalating trade tensions and paving the way to “the next phase” in the US and UK’s trading relationship.

The retaliatory tariffs set out in the Commission Implementing Decision are based on the authorisation given by the WTO Dispute Settlement Body to the EU, as the complainant in the dispute with the US. To assist our scrutiny, we would welcome further information on the following matters:

First, do you consider that the authorisation given to the EU would have provided a lawful basis for the UK to continue to apply retaliatory tariffs from 1 January, had the Government wished to do so?

Second, do you anticipate that the authorisation given to the EU would provide a lawful basis for the Government to re-impose retaliatory tariffs at a later stage, if it considers that de-escalation is not an effective means of reaching a reasonable settlement with the US? If so, how would the retaliatory measures authorised by the WTO Dispute Settlement Body be apportioned between the EU and the UK and would it be possible for the UK to vary the choice of products subject to additional tariffs?

Third, if the authorisation given to the EU would *not* allow the UK to impose its own retaliatory tariffs, what steps would the UK need to take to do so?

Fourth, the Commission Implementing Regulation is based on powers conferred by the [EU's Trade Enforcement Regulation](#) (654/2014) and the EU countermeasures take the form of additional customs duties under the [EU's Customs Code](#) (Regulation 952/2013). Both Regulations are listed in Annex 2 of the Protocol on Ireland/Northern Ireland and will continue to apply in Northern Ireland (but not the rest of the UK) after transition. Based on your understanding of the relevant provisions of the Protocol, you indicate that the additional duties imposed by the Commission Implementing Regulation will only apply to relevant US goods entering the Northern Ireland market which are "at risk" of onward movement to the EU. We ask you to set out your reasons for considering that the application of EU law under Article 5(3) and (4) of the Protocol on Ireland/Northern Ireland (which provide the legal base for the continued application of the Commission Implementing Regulation in Northern Ireland after transition) is subject to or dependent on the "at risk" criteria to be agreed by the Withdrawal Agreement Joint Committee under Article 5(2) of the Protocol.

Finally, we are pleased to note that you have engaged with business and industries that may be affected by the EU's retaliatory tariffs. Given that the Commission Implementing Regulation will continue to apply in Northern Ireland after transition, we would be interested to hear whether there are specific industries or supply chains operating in Northern Ireland that will be particularly affected by the continuation of the EU's retaliatory tariffs or placed at a competitive disadvantage if the additional duties apply in Northern Ireland but not in the rest of the UK from 1 January 2021. We would also welcome your assessment of the impact that the discontinuation of the retaliatory tariffs in Great Britain from 1 January 2021 may have on the Broughton Airbus production line in North Wales and other UK-based Airbus supply chains.

I am copying this letter to the Chair (Angus MacNeil MP) and Clerk (Joanna Welham) of the International Trade Committee; the Chair (Simon Hoare MP) and Clerk (Nick Beech) of the Northern Ireland Affairs Committee; the Chair (the Earl of Kinnoull) and Clerk (Stuart Stoner) of the EU Select Committee in the House of Lords; your Departmental Scrutiny Coordinators, Edwina Osborne and Stephen Booth; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR