

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

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Rt Hon Greg Hands MP
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Northern Ireland Protocol: application of EU preferential rules of origin (Commission Implementing Regulation (EU) 2020/2163) (41759)

We have considered your [Explanatory Memorandum](#) on this [Commission Implementing Regulation](#) which seeks to clarify whether goods imported into Northern Ireland and considered to be at risk of entering the EU Single Market qualify for an EU preferential tariff. As you note, the Regulation has to be read alongside [Decision No 4/2020](#) of the Withdrawal Agreement Joint Committee which establishes the criteria for determining which goods are to be considered at risk.

We are struck by the complexity of both documents and the difficulty we have had in making sense of them. Our questions are aimed at understanding how they will affect traders importing goods into Northern Ireland who, we fear, may face similar difficulties understanding the processes envisaged.

The role of the European Commission

Only goods from third countries which the European Commission considers have taken the necessary measures to comply with EU rules and procedures on preferential origin and are listed on its website can be imported into Northern Ireland using the EU's tariff preferences. You state that "the procedures for meeting the rules of origin in order to obtain EU preferences in Northern Ireland remain the same as in the EU". **Does this mean that the same listing requirement applies for goods being imported into the EU under the EU's preferential trading arrangements and, if not, why is it necessary for imports into Northern Ireland? Please tell us how many of the EU's preferential trading partners have been listed on the Commission's website so far. Do you**

consider it likely that some third countries will choose *not* to be listed because the requirements on proofs of origin and verification of origin are too onerous, given their volume of trade with Northern Ireland?

If there is evidence of non-compliance with EU rules on preferential origin, the EU's preferential tariffs will no longer be available when importing goods into Northern Ireland after a six-month notice period. The Commission will determine the date on which the EU's preferential tariffs cease to apply and the date on which they are to be restored. **Do you share our concern that these provisions, in effect, make the European Commission the gatekeeper for the application of the EU's preferential tariffs in Northern Ireland, even though the Protocol on Ireland/Northern Ireland makes clear that UK customs authorities are responsible for implementing and applying relevant EU customs law in Northern Ireland?**

The practical implications of the Commission Implementing Regulation

We note that Northern Ireland content (for example, materials sourced in or processing operations undertaken in Northern Ireland) which is included in goods imported into Northern Ireland from one of the EU's preferential trade partners will not count as EU content, making it less likely that these goods will qualify for the EU's preferential tariffs. **What assessment has the Government made of: (i) the product categories or sectors most likely to be affected; (ii) the supply chains that may be interrupted or diverted to exclude Northern Ireland content; and (iii) the economic impact on Northern Ireland businesses and traders?**

You state that traders importing goods directly into Northern Ireland from the UK's continuity trade partners—that is, third countries with whom the UK has concluded trade agreements which broadly replicate those that applied when the UK was a member of the EU—will need to prove that they comply with EU *and* UK rules of origin. **What evidence is there so far that traders are willing and able to do so? What feedback have you received from those affected?**

You expect that most of these goods will, in any event be considered at risk of entering the EU market and subject, as a result, to the EU's standard MFN tariff rather than the EU's preferential tariff. **Why, in that case, has the Government not yet established a reimbursement scheme for these goods? When do you expect to do so and, once up and running, will the scheme reimburse tariffs already paid? Please also explain how the condition on non-commercial processing (in Article 2 of the Joint Committee Decision) will apply in establishing whether goods imported into Northern Ireland are to be considered at risk of entering the EU market.**

You indicate that implementation of the Regulation should not be onerous in practice as traders will already have most of the information required and that any administrative changes will be “very minor”. You cite the EU-Turkey Trade Agreement as one of “a few exceptions”. **We would welcome further information on the exceptions and how they will affect traders importing goods into Northern Ireland.**

Turning to circumstances in which goods imported into Northern Ireland do *not* qualify for a preferential EU tariff under the Regulation or for a UK preferential tariff under the UK’s trade arrangements (because, for example, the goods do not satisfy EU or UK rules of origin), we would be interested in your view on how the at risk criteria in the Joint Committee Decision will apply. **In particular, if (as we understand is generally the case) the UK’s MFN tariff is lower than the EU’s MFN tariff, how would this affect the “at risk status” of the goods in question and the tariffs that would apply?**

Finally, we would be grateful if you could point us to the relevant gov.uk guidance which explains how the Commission Implementing Regulation, read alongside the Joint Committee Decision on at risk goods, will work in practice. We would also be interested to hear what systems are in place to monitor the take-up of EU preferences under the Commission Implementing Regulation and its impact on businesses importing goods into Northern Ireland.

We request a response to this letter by the end of February.

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 (the Earl of Kinnoull) and Clerk (Christopher Johnson) 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