

# European Scrutiny Committee

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From: Sir William Cash MP

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Paul Scully MP

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## **Proposed EU Regulation on “foreign subsidies distorting the internal market”**

You will be aware that in May the European Commission published a formal proposal for a Regulation on “foreign subsidies distorting the internal market”, following a White Paper in June last year on ways of addressing perceived distortions of competition within the EU caused by economic activities subsidised by non-EU governments.<sup>1</sup> This would in a sense externalise EU State aid law, allowing the European Commission to investigate the potential economic impact of subsidies granted by non-EU countries on competition within the EU’s Single Market, both in respect of non-EU companies and their EU-based subsidiaries.

Last year, you acknowledged in your Explanatory Memorandum on the White Paper that preceded the proposal that the new EU Foreign Subsidies Regulation would have certain “foreseeable” implications for UK businesses, including the risk of fines and other measures against specific companies. The increased administrative burdens when companies with links to non-EU countries seek to make acquisitions or bid for tenders in the EU could also, you said, “prejudice UK businesses” because of the need for European Commission approval. You noted at the time that the Government would “closely monitor” the Commission proposals and “consider the implications for UK public authorities and businesses as more details emerge”.

Today, we considered the draft Regulation. It appears that the European Commission could acquire extensive new powers to intervene against UK

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<sup>1</sup> European Commission document [COM\(2021\) 223](#).

businesses' EU operations if they are in receipt of any UK subsidies, insofar as those subsidies are not still subject to EU State aid law under Article 10 of the Northern Ireland Protocol. While you have previously rightly pointed out that the Government's historic approach to subsidies suggests that the instances where subsidies to UK firms could distort competition within the EU's market are likely to be rare, your Department is still in the process of establishing our new post-Brexit subsidy control regime. Moreover, for individual UK companies, the impact of the Commission proposal on their EU operations in due course could still be significant.

As such, I am writing to formally register our interest in the Commission proposal and to ask you to clarify if the Government has been able to analyse the proposal and, if so, what implications it foresees for UK businesses with operations in the EU (and how it plans to engage in Brussels to mitigate any negative effects). In addition, we have taken note of the Government's assessment that the proposal "is not considered [...] to fall under the scope of the Northern Ireland Protocol". As such, the proposed new powers for the European Commission to investigate and address foreign subsidies are not expected to apply to companies in Northern Ireland (although, as noted, EU State aid law itself continues to apply under the Protocol to UK subsidies that affect Northern Ireland-EU trade in goods in any event). However, we would be grateful if you could ensure that the Committee is updated if there are any indications from the EU, formally or otherwise, that it intends to request the Regulation be incorporated into the Northern Ireland Protocol.

We look forward to receiving your reply by the end of August.

I am copying this letter to the Secretary of State for Business; to Darren Jones, Chair of the Committee on Business, Energy & Industrial Strategy and Rebecca Davies, Clerk of that Committee; to Angus Brendan MacNeil, Chair of the International Trade Committee and Eligio Cerval-Peña, Clerk of that Committee; to Lord Kinnoull, Chair of the House of Lords EU Select Committee, and to Chris Johnson, that Committee's Clerk; to the Parliamentary Scrutiny team in your Department; and to Les Saunders in the Cabinet Office.

**CHAIR**