

European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

17 November 2021

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The EU's new General Product Safety Regulation

Thank you for your Explanatory Memorandum (EM) of 21 September 2021 on the recent EU proposal for a new General Product Safety Regulation, as well as your subsequent appearance before us on 3 November.¹ As you acknowledged in your EM, and as was clear from your evidence, these draft EU rules on the safety of consumer goods such as furniture, clothing and bicycles could still have ramifications for the UK despite its withdrawal from the EU in 2020.

We are of course aware of the Government's efforts to renegotiate the Protocol to reduce the extent to which goods in Northern Ireland must comply exclusively with EU product rules (and noting the suggestions that the Government may have recourse to Article 16 safeguard measures to address the fall in trade in goods from GB to NI since the Protocol took effect).

However, under the Protocol as currently worded – as your own EM notes – this new EU Regulation may apply directly in Northern Ireland because it replaces the General Product Safety Directive and the Food-Imitating Products Directive, both of which are listed in the Protocol and as such remain in effect in Northern Ireland. Moreover, as you confirmed to us in your evidence on 3 November, products legally for sale in the EU can lawfully be marketed in Northern Ireland under the 'mutual recognition' principle under EU law, and goods in free circulation in Northern Ireland have "unfettered access" to the rest of the UK. As such, it appears consumer goods made to EU safety standards – for example consumer goods compliant

¹ European Commission document COM(2021) 346, (41874).

with this new EU Regulation, when it takes effect – could also be placed lawfully on the market in England, Wales and Scotland via Northern Ireland, with potential implications for the integrity of the UK’s independent, post-Brexit product safety regime. When pressed on this, you did not deny that this would remain the case even if the EU accepted the Government’s proposals for reform of the Northern Ireland Protocol in full.

In addition, we note that any new EU safety requirements for the sale of consumer goods would also affect companies in Great Britain that export such products to the EU, since they would have to meet the new obligations – for example in relation to the appointment of a legal representative in the EU, or the new traceability and recall systems – when selling their wares to EU wholesale or retail customers. You told us that while the new Regulation “is something that businesses that are currently exporting to the EU from GB are interested in”, the Government “would not necessarily comment on the EU’s process now we are a sovereign country again”.² However, given the trade flows involved, it might be helpful for the Government to engage with the EU to ensure that the final Regulation hinders such exports as little as possible.

In light of this, it would be helpful if you could clarify:

- Whether the Government has any specific concerns about the substance of the Commission proposal as it stands, in light of the potential implications for the safety of consumer goods sold in Northern Ireland (and, from there, into the rest of the UK), and to what extent the proposed changes are consistent with your Department’s own product safety review; and
- What support you are giving to British businesses that export goods covered by the proposed Regulation to the EU, to amplify where necessary their views and concerns to EU policy-makers and avoid to the extent possible any new barriers such exports might face under the new EU legislation.

We look forward to receiving your reply before the Christmas recess. We would also be interested to receive an update from you in due course when there are any developments to report in the Government’s discussions with the EU on the connection of the latter’s ‘Safety Gate’ and the UK’s new Product Safety Database for information on defective and dangerous consumer goods, as envisaged by Article 96 of the Trade and Cooperation Agreement.

² [Oral evidence](#) by Paul Scully MP to the European Scrutiny Committee, 3 November 2021, Q15.

I am copying this letter to the Chair and Clerk of the Business, Energy and Industrial Strategy Committee (Darren Jones MP and Dr Rebecca Davies); the Chair and Clerk of the Northern Ireland Affairs Committee (Simon Hoare MP and Stephen Habberley); the Chair and Clerk of the International Trade Committee (Angus MacNeil MP and Eligio Cerval-Peña); Lord Kinnoull, Chair of the House of Lords EU Select Committee, and to Chris Johnson, that Committee's Clerk; Anuska Raval in your Department and to Les Saunders in the Cabinet Office.

CHAIR