

# European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

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Rt Hon. Penny Mordaunt MP

Minister for Trade Policy

Department for International Trade

## **Proposed EU anti-coercion law—implications for the UK**

We have recently considered a European Commission [proposal for a Regulation to protect the EU and EU Member States from economic coercion by third countries](#).<sup>1</sup> We would welcome further information of the following matters.

### 1. Possible application under the Protocol on Ireland/Northern Ireland

The proposed Regulation would give the European Commission wide-ranging powers to take a range of measures to counter acts of economic coercion by a third country, including restrictions affecting trade in goods. Annex 2 to the Protocol lists a number of EU trade defence instruments which continue to apply in Northern Ireland, otherwise goods destined for the EU market which are subject to EU restrictions could be routed through Northern Ireland into the EU Single Market. The inclusion of these measures suggests that the EU might wish to add the Regulation, if adopted, to Annex 2. As it would be a new EU legislative act, the UK would have to agree to its inclusion in the Joint Committee established by the EU/UK Withdrawal Agreement. With this in mind, we ask you to tell us:

- whether the EU has indicated, in the Joint Consultative Working Group or elsewhere, that it considers the proposed Regulation to be within the scope of the Protocol; and
- whether the Government has carried out its own assessment of the proposal and considers that it is (or may be) within the scope of the Protocol and, if so, would support an amendment of Annex 2.

We also ask you for your preliminary analysis of the implications of the proposed Regulation for Northern Ireland, given that the [UK Trader Scheme](#) (which allows goods brought into Northern Ireland and remaining in the UK's

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<sup>1</sup> Proposal for a Regulation on the protection of the EU and its Member States from economic coercion by third countries, COM(2021) 775, published 8 December 2021.

customs territory to pay UK rather than EU tariffs) does not apply to goods brought into Northern Ireland from elsewhere in the UK or from outside the EU if they are subject to EU trade defence measures.<sup>2</sup>

## 2. Wider implications for the UK

The definition of economic coercion in the proposed Regulation and the discretion given to the European Commission to determine whether the conditions have been met are intentionally broad to maximise their deterrent effect.

- Is the Government concerned that legitimate policy choices made as part of the UK's autonomous trade policy could fall foul of the EU's rules?
- Are there wider concerns that the Government would like to see resolved in negotiations on the proposal and, if so, what is its strategy for influencing the outcome?

We are interested in the interaction between the proposed Regulation, the EU/UK Trade and Cooperation Agreement (TCA) and the EU/UK Withdrawal Agreement. Both agreements enable the EU and the UK to take safeguard and/or rebalancing measures if certain conditions are met. Do you consider that the EU would have to follow the procedures set out in these agreements rather than rely on the proposed Regulation if it considered trade restrictions were justified?

Finally, are you concerned that the proposed Regulation could affect individuals or businesses operating in the UK if the European Commission determines that they also are implicated in economic coercion through their connection with the third country in question?

I am copying this letter to the Chair (Angus MacNeil MP) and Clerk (Eligio Cerval-Pena) of the International Trade Committee; the Chair (Simon Hoare MP) and Clerk (Stephen Habberley) of the Northern Ireland Affairs Committee; the Chair (Lord Kinnoull) and Clerk (Nick Boorer) of the House of Lords European Affairs Committee; Amber Sedki-Farag of your Department; and Les Saunders and Donald Harris in the Cabinet Office.

## **CHAIR**

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<sup>s</sup> See Article 3(2) of [Decision No 4/2020](#) of the Withdrawal Agreement Joint Committee on the determination of goods not at risk.