



Department for International Trade

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Sir William Cash MP
Chair of the European Scrutiny Committee
European Scrutiny Committee
House of Commons
London SW1A 0AA

Our ref:

12th June 2018

Dear Bill,

OTNYR Council Decision amending and extending Council Decision OTNYR – COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX on certain commercial policy measures concerning certain products originating in the United States of America pursuant to Article 4(l) of Regulation (EU) No 654/2014

I am writing in response to your questions regarding the Explanatory Memorandum (EM) in relation to the above-captioned Commission Implementing Regulation (EU).

We are clear that the US tariffs have weak foundations in international law, and the UK will support a unified EU response that is measured and proportionate, and works within the boundaries of the rules-based international trading system. The parameters for imposing “countermeasures” or “rebalancing measures” are set out in Article 8 of the WTO Safeguards Agreement.

Under Article 8 of the WTO Safeguards Agreement, the EU believes it is entitled to introduce countermeasures on the US to rebalance the harm caused by US tariffs. Under WTO rules, the EU must notify the WTO of its list of potential countermeasures and then wait at least 30 days before triggering this list of tariffs. The EU notified the WTO of its potential list of countermeasures on 18 May, and could therefore begin imposing countermeasures from 20 June. The EU has indicated that it will bring its countermeasures into force from 1 July.

As set out in the draft Withdrawal Agreement, the UK would apply the EU acquis during the transition period, including in relation to tariffs. Countermeasures are increased tariffs, therefore, the UK would continue to apply such measures maintained by the EU during this period.

The UK has made no formal decision on whether it would continue to apply countermeasures in a “no deal” scenario. The UK is seeking powers in the Taxation (Cross-border Trade) Bill that would enable it to apply its own countermeasures in accordance with international law, including under with Article 8 of the WTO Safeguards Agreement. This means the UK would be have the powers to continue applying countermeasures or could choose not to apply any once it was no longer bound by the EU aquis.

Whether the UK would continue to implement EU countermeasures following an implementation or transition period, and the impact on the UK if we did or did not apply these countermeasures, would depend on the customs arrangements to be agreed with the EU.

I am copying this letter to The Lord Boswell, Chair of the European Union Committee, the Clerks of both Committees, Les Saunders (Cabinet Office) and Edwina Osborne (DIT Scrutiny).

Yours,


RT HON GREG HANDS MP
Minister of State for Trade Policy
Department for International Trade