



Department
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Sir William Cash MP
Chairman
European Scrutiny Committee
14 Tothill Street
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London
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16 November 2018

to Bill,

EM 7809/18, COM(2018) 173 FINAL: PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON UNFAIR TRADING PRACTICES IN BUSINESS-TO-BUSINESS RELATIONSHIPS IN THE FOOD SUPPLY CHAIN (AND ADD 1-3)

Thank you for your report of the 10 October 2018. I have responded to your points in turn below.

0.1 The inclusion of a 30-month transposition period in the Council position—rather than the originally proposed six months with a further six months to apply the legislation—is particularly notable in the light of the UK's withdrawal from the EU. We ask that the Minister keep us updated on this matter in particular.

I will write to inform the Committee of any proposed changes to the transposition deadline. Tentatively, it appears that the European Parliament is content with the transposition as currently drafted, as they have not yet signalled any intent to propose a shorter period.

0.2 Turning to other issues raised, we note that the Government has resisted any "formal consultation" with stakeholders as the proposal is still subject to amendment, but that it has nevertheless been able to hold consultative meetings with "key stakeholders". While the limited consultation that has taken place is welcome, we remark that formal consultation before legislation is agreed—and can therefore be amended in response to concerns expressed—is good practice both as regards EU legislation and domestic UK legislation. Such an approach is not uncommon.

The Health and Harmony consultation, conducted between 27 February and 8 May, included specific questions regarding what domestic action is required to address issues in the agri-food supply chain. The responses we received have informed the inclusion of provisions in the Agriculture Bill to publish and maintain statutory codes of conduct which will govern the business relationships between primary producers and first purchasers of agricultural goods. We believe that these powers will offer far greater protection to farmers and growers than those offered under the EU directive.

Given the recent consultation which covered domestic action in this space, we would consider it an inappropriate use of public funds to engage in any formal consultation relating to the EU directive, especially given that our current estimates indicate a low risk of the UK being obliged to transpose it into national law.

0.3 As we have made clear in our earlier Reports on the matter, though, the proposal remains salient to UK producers regardless of Brexit as it could assist them in their relationships with non-UK buyers. We therefore support the Government's continued engagement on the proposal and attempts to ensure that the final legislation is workable.

Defra officials and UKREP colleagues continue to actively engage with the discussions on the directive and the Special Committee for Agriculture meetings, where they offer advice and suggestions for how the directive can be made more robust and workable.

0.4 We ask that the Government provide us with an update on the progress of negotiations with the European Parliament by mid-November. In the meantime, the proposal remains under scrutiny. We draw this chapter to the attention of the Environment, Food and Rural Affairs Committee.

The first round of trilogue negotiations was held on 25 October, followed by a second discussion held on 7 November. There is a Special Committee on Agriculture meeting on 12 November, where Member States will be asked for opinions on the revised text arising from trilogues.

Please note, the earliest a final political decision can be made is at the AgriFish Council on 17 and 18 December, hence this is the earliest a mandate will be sought for this.

I am copying this letter to Lord Boswell, Chairman of the European Union Committee. I am also copying this letter to the Clerks of the Commons and Lords Committees, Lynn Gardner and Chris Johnson respectively; Les Saunders, Department for Exiting the European Union; and Tess Hanneman, Defra Scrutiny Co-ordinator.

for info

David

DAVID RUTLEY MP