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Sir William Cash MP
European Scrutiny Committee
House of Commons
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6 September 2021

Dear Sir William

EM 8095/21: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MACHINERY PRODUCTS

Thank you for your letter, dated 23 June 2021, in response to the Explanatory Memoranda (EM) on the above draft Regulations.

Further to your European Scrutiny Committee hearing with Lord Frost on 19 July, it should be noted that the Government is seeking to find a new balance in the Protocol in order to place it on a more sustainable footing. The proposals, set out in the Government's July 2021 Command Paper (Northern Ireland Protocol: the way forward), include the arrangements covering trade in goods and the institutional framework. This includes a dual regulatory regime in Northern Ireland that would allow goods made to either UK or EU rules to circulate within Northern Ireland, reducing burdens on businesses trying to put goods from Great Britain on the market. This would mean that the proposed rules here would apply only if manufacturers wished to make goods to EU rules in order to access the EU as well as the NI market.

You have raised two specific questions on the proposals including the implications of the application of the Regulations to Northern Ireland under the Protocol. I have provided responses for each of these questions below.

- 1. How has the Government engaged with the Commission and other EU institutions on the potential revision of the Directive to date; and what changes would it like to see made to the legal text of the draft Machinery Regulation.*

The Regulation published by the European Commission is currently a proposal that sets out their vision and intention to future proof the existing machinery regulations, which came into force in 2008. Since then, technology has progressed significantly meaning that the existing regulations could not have taken account of emerging technology, such as artificial intelligence and machine learning capabilities. The proposals are subject to negotiation by Member States, meaning that the proposed amendments may change. Once agreed by

Member States, the proposal would become applicable 30 months after its entry into force, to allow manufacturers, notified bodies and Member States time to adjust.

The European Commission carried out an evaluation of the existing machinery regulations in 2018 and drafted the proposals in response to the issues it found. We are aware that companies and business organisations from the UK submitted responses to this evaluation. We are now analysing the implications of the EU's proposal and will also seek views from UK stakeholders.

As you noted in your letter, we are carrying out a review into the product safety framework. This work will inform our analysis of the proposed EU Machinery Regulation as the Review is considering the impact of new technologies (such as software, connectivity and AI technologies) across the product safety framework. Officials have been engaging with stakeholders inside and outside of Government to gather evidence to assess what changes are needed, to ensure the framework is fit for purpose, protects consumers and enables businesses to innovate and grow.

2. How does the Government intend to ensure the integrity of the safety standards underpinning the new UKCA system from 1 January 2022 if CE marked goods on the market in Northern Ireland can still be sold freely in England, Scotland and Wales after that date, and more particularly how it will prevent EU businesses moving their CE marked goods into Great Britain through Northern Ireland for the purpose of avoiding the need to obtain a UKCA mark.

The Government has been unequivocal in its commitment to unfettered access for qualifying Northern Ireland goods moving to the rest of the UK market. We have enshrined it in law and that is what we have seen in practice since 1 January. This includes accepting qualifying NI goods which are valid for the rest of the UK market, if lawfully bearing a CE or CE+UKNI marking.

The Government has ensured that an effective legislative framework is in place to continue to provide protection for consumers from unsafe goods. Businesses are responsible for ensuring that goods being placed on the market anywhere in the UK are safe and compliant. There are also risk-based checks in place to ensure the safety of products, including if they are sold in GB via the NI qualifying goods principle.

The Committee has also asked a specific question on how the Government will prevent EU businesses from moving CE marked goods into GB through NI to avoid obtaining the UKCA mark. The Government has been clear that unfettered access provisions are accompanied by anti-avoidance measures to prevent and detect traders seeking to abuse this system. Goods starting their journey in the EU will not qualify for unfettered access if they are moved through Northern Ireland into Great Britain for an avoidance purpose. The anti-avoidance regime applies to all traders routing goods through Northern Ireland for the sole purpose of avoiding the checks, controls and duties which will apply on EU goods entering GB.

I trust this letter will provide reassurances with regards to the impact of this proposed EU Regulation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Scully', with a stylized flourish at the end.

PAUL SCULLY MP

Minister for Small Business, Consumers & Labour Markets
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