

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT EXTRATERRITORIAL US LEGISLATION  
(SANCTIONS AGAINST CUBA, IRAN AND LIBYA)  
(PROTECTION OF TRADING INTERESTS)  
(AMENDMENT) (EU EXIT) REGULATIONS 2022

*Thursday 8 December 2022*

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**Monday 12 December 2022**

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**The Committee consisted of the following Members:**

*Chair:* CAROLYN HARRIS

Brennan, Kevin ( <i>Cardiff West</i> ) (Lab)	† Jones, Fay ( <i>Brecon and Radnorshire</i> ) (Con)
† Britcliffe, Sara ( <i>Hyndburn</i> ) (Con)	Mahmood, Mr Khalid ( <i>Birmingham, Perry Barr</i> ) (Lab)
† Clarkson, Chris ( <i>Heywood and Middleton</i> ) (Con)	Maynard, Paul ( <i>Blackpool North and Cleveleys</i> ) (Con)
† Duffield, Rosie ( <i>Canterbury</i> ) (Lab)	† Penrose, John ( <i>Weston-super-Mare</i> ) (Con)
† Ellis, Michael ( <i>Northampton North</i> ) (Con)	† Stafford, Alexander ( <i>Rother Valley</i> ) (Con)
† Griffith, Dame Nia ( <i>Llanelli</i> ) (Lab)	† Vickers, Martin ( <i>Cleethorpes</i> ) (Con)
Hardy, Emma ( <i>Kingston upon Hull West and Hessle</i> ) (Lab)	† Wakeford, Christian ( <i>Bury South</i> ) (Lab)
† Henry, Darren ( <i>Broxtowe</i> ) (Con)	
Hillier, Dame Meg ( <i>Hackney South and Shoreditch</i> ) (Lab/Co-op)	Jack Edwards, <i>Committee Clerk</i>
† Huddleston, Nigel ( <i>Parliamentary Under-Secretary of State for International Trade</i> )	† <b>attended the Committee</b>

## Sixth Delegated Legislation Committee

Thursday 8 December 2022

[CAROLYN HARRIS *in the Chair*]

### Draft Extraterritorial US Legislation (Sanctions against Cuba, Iran And Libya) (Protection of Trading Interests) (Amendment) (EU Exit) Regulations 2022

11.30 am

**The Parliamentary Under-Secretary of State for International Trade (Nigel Huddleston):** I beg to move,

That the Committee has considered the draft Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) (Amendment) (EU Exit) Regulations 2022.

It is a pleasure, again—second week running on a Thursday—to serve under your chairmanship, Mrs Harris. This instrument amends the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996—the 1996 order. It aims to correct a minor and technical deficiency arising from the UK’s withdrawal from the European Union. Specifically, it updates a single cross-reference to section 30(3) of the Small Business, Enterprise and Employment Act 2015 so that it matches an update made to the provision that was itself made during the withdrawal process. That is all the instrument does. It makes a minor and technical amendment, and does not alter policy.

The 1996 order is part of the legislation that sets out the United Kingdom’s protection of trading interests regime, which also includes the Protection of Trading Interests Act 1980 and the retained version of Council Regulation (EC) No. 2271/96, the EU version of which is also known as the blocking regulation, or the countermeasures regulation. Together, those concern a matter of vital interest to the United Kingdom as an international trading nation. They seek to protect against and counteract the effects of so-called extraterritorial domestic legislation made by other countries—that is, legislation that seeks to enforce those countries’ economic and commercial policies beyond the normal bounds of national jurisdiction as recognised in international law.

For example, most countries impose sanctions on persons that rely on either a territorial or a nationality-based jurisdiction, nexus or connection. To be clear, when I say “persons”, that can mean an individual or a corporation. However, certain countries claim extraterritorial jurisdiction to apply sanctions beyond their borders to all persons, regardless of their connection to the issuing country, and such measures can be unilaterally deployed by third countries to coerce UK operators to withdraw from activities that are otherwise lawful in the UK—in effect, imposing domestic law overseas. Such measures currently include US sanctions against Iran and Cuba. Despite the title of the 1996 order, the instrument does not currently concern US sanctions against Libya. When the 1996 order was originally drafted, one of the proscribed sanctions laws for the purposes of the blocking regulation was the United States’ Iran and Libya Sanctions Act of

1996, but that was removed from the list of proscribed US legislation in the blocking regulation by an amendment in 2018.

In practice, the issue of extraterritorial sanctions legislation arises primarily in relation to the US, although it is right that we take similar action against other countries as the necessity arises. By way of a more concrete example, consider a UK company with no connection to the US that imports something—say, cigars—to the UK from Cuba. It might find itself denied insurance for those imports by a UK bank on the grounds that providing such insurance could breach US sanction laws. The protection of trading interests legislation provides that it would be unlawful for a bank to refuse insurance on that basis. That protects the importer’s trading interests and those of the UK more broadly.

The function of the retained blocking regulation and the 1996 order is, then, to protect UK entities from being forced to comply with such extraterritorial laws. The retained blocking regulation also allows UK entities to recover damages arising from the application of sanctions imposed by another country. The 1996 order initially provided the mechanism for implementing the EU blocking regulation in domestic law by setting out the offences and penalties relating to that regulation, and it has continued to provide the same function in relation to the retained blocking regulation.

Article 4 of the 1996 order sets out various requirements for carrying out a five-yearly review of the regulatory provisions contained in the order. In particular, article 4(4) cross-references and paraphrases section 30(3) of the Small Business, Enterprise and Employment Act 2015, and that cross-reference specifies that a review carried out under article 4 must, so far as is reasonable, have regard to the rules on penalties applicable to infringement of the EC counter-measures regulation and the measures taken to implement it in other EU member states.

There are two deficiencies in the current drafting. First, the cross-reference to section 30(3) of the Small Business, Enterprise and Employment Act 2015 is out of date and does not reflect changes made to that section following the UK’s withdrawal from the EU. Secondly and similarly, following our withdrawal from the EU, the EC blocking regulation no longer applies to or in the UK. Therefore, the instrument seeks both to update the cross-reference to section 30(3) of the 2015 Act and to remove the obsolete reference to EU law and EU member states.

Instead, the replacement text provides for considering other applicable international obligations, in line with the current wording of section 30(3) of the 2015 Act. This will allow us to tailor our assessment to the UK’s relevant international obligations and properly reflect our departure from the EU.

The proposed amendment is a technical fix; it does not change the approach of His Majesty’s Government to the issue. Ultimately, the blocking regulation has a single and non-contentious objective to ensure that commercial decisions by UK persons are not subject to the extraterritorial laws of other countries that exceed the boundaries of the international law on jurisdiction. The instrument laid before this House ensures that the 1996 order, as amended, remains fit for purpose.

I beg to move that the Committee approve the instrument.

11.37 am

**Dame Nia Griffith** (Llanelli) (Lab): Thank you, Mrs Harris, for calling me to speak and it is a pleasure to serve under your chairmanship this morning.

I rise to speak for the official Opposition on the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) (Amendment) (EU Exit) Regulations 2022. I thank the Minister for setting out the purpose of this legislation with helpful examples and I also thank the officials, who have been most helpful.

The need for this legislation arises because the UK has left the EU and is no longer under any obligation to follow EU policy. As I understand it, there are two purposes to this legislation. The first is to amend article 4(4) of the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996 to correct deficiencies arising from the UK's withdrawal from the EU by updating a cross-reference to section 30(3) of the Small Business, Enterprise and Employment Act 2015.

This legislative amendment continues existing policy—it maintains the status quo—and, as such, we support it. It ensures that where the UK and the US differ in their approach to sanctions against third countries—in this case, Iran and Cuba—UK companies are not penalised by the United States for not complying with the way the US sanction regime operates.

The second purpose of this legislation is to remove an obsolete reference to Council Regulation EC2271/96, the EC counter-measures regulation, which no longer applies in the UK. This is for the purpose of consistency

and removes the need for the Secretary of State to have regard to measures related to the counter-measures regulation when carrying out a future regulatory review under article 4 of the 1996 order. This reflects the reality that the UK has left the European Union, and we support this measure.

Unusually, I do not have any questions to put to the Minister this morning, as I am satisfied with the explanations given for the need for and the purpose of this legislation, and I confirm Labour's support for this legislation.

11.39 am

**Nigel Huddleston:** I thank the shadow Minister for her comments and her support, and for her grasp—as always—of what are sometimes quite technical issues. I also thank the officials, for the engagement they have had with her and for drafting the legislation.

As I stated, the purpose of the legislation we are considering today is to make an amendment that is a technical fix. The instrument does not change the Government's approach to the issue, nor does it change the Government's approach on other diplomatic and trade issues. It simply updates the 1996 order to reflect the fact that the United Kingdom has left the European Union so nothing in this regulation represents a change for British businesses.

I thank all hon. Members and everybody else who has attended today for the swift progress that we have made.

*Question put and agreed to.*

11.40 am

*Committee rose.*





