

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT COMMON RULES FOR EXPORTS
(EU EXIT) REGULATIONS 2020

Wednesday 14 October 2020

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The Committee consisted of the following Members:

Chair: †JAMES GRAY

Abrahams, Debbie (*Oldham East and Saddleworth*)
(Lab)

Ali, Rushanara (*Bethnal Green and Bow*) (Lab)

† Caulfield, Maria (*Lewes*) (Con)

† Clarke-Smith, Brendan (*Bassetlaw*) (Con)

Davies-Jones, Alex (*Pontypridd*) (Lab)

† Esterson, Bill (*Sefton Central*) (Lab)

† Everitt, Ben (*Milton Keynes North*) (Con)

† Fletcher, Colleen (*Coventry North East*) (Lab)

† Higginbotham, Antony (*Burnley*) (Con)

† Hill, Mike (*Hartlepool*) (Lab)

† Jones, Andrew (*Harrogate and Knaresborough*)
(Con)

† Mak, Alan (*Havant*) (Con)

† Mangnall, Anthony (*Totnes*) (Con)

† Stafford, Alexander (*Rother Valley*) (Con)

† Stuart, Graham (*Parliamentary Under-Secretary of
State for International Trade*)

Thompson, Owen (*Midlothian*) (SNP)

† Webb, Suzanne (*Stourbridge*) (Con)

Seb Newman, *Committee Clerk*

† **attended the Committee**

Seventh Delegated Legislation Committee

Wednesday 14 October 2020

[JAMES GRAY *in the Chair*]

Draft Common Rules for Exports (EU Exit) Regulations 2020

9.25 am

The Parliamentary Under-Secretary of State for International Trade (Graham Stuart): I beg to move,

That the Committee has considered the draft Common Rules for Exports (EU Exit) Regulations 2020.

It is a pleasure to serve under your chairmanship, Mr Gray, and I thank colleagues for attending. I hope that they will be unanimous in support of the regulations and their objective. The regulations were laid before this House on 21 September, and are made under powers in the European Union (Withdrawal) Act 2018, to which I will refer as “the Act”. The Committee will be aware that, given the context, those powers are strictly limited. All that they allow is the correction of technical deficiencies in existing EU law that, by the operation of the Act, are to be retained in United Kingdom domestic law following withdrawal from the European Union.

The regulations correct those deficiencies by, for example, replacing references to the European Union, its institutions and legislation with the appropriate United Kingdom references. The retained EU regulation, as amended by the regulations, lays down the basic principle that exports from Great Britain will not be subject to any quantitative restrictions unless the restrictions are applied in conformity with the retained EU regulation. The new legal regime makes clear what the purpose of any export restriction should be. In general, export restrictions may only be used either where there is a risk of a critical situation arising on account of a shortage of essential products or in order to remedy such a situation or where such a measure is needed to fulfil international undertakings entered into by the United Kingdom.

Throughout the year, we have seen the use of export restrictions on medical goods grow around the world in response to shortages arising during the fight against covid-19. Indeed, the European Commission used the EU regulation in March in response to shortages of personal protective equipment. Under this EU regulation, the United Kingdom was required temporarily to authorise any exports of PPE, following a review of licence applications from exporters. In the vast majority of cases, the United Kingdom authorised those exports.

Although export restrictions can be appropriate in dealing with critical situations in the short term, the restrictions that have built up around the world have disrupted the normal flow of trade and exacerbated the efforts of many countries to combat the global pandemic. The Government have made it clear that countries should limit their use of export restrictions as far as possible. In May, the United Kingdom joined calls for the use of export restrictions to be restricted, and applied only where deemed completely necessary in a

targeted, proportionate, transparent and time-limited way. By applying strict conditions to the use of any export restriction, this legal regime sends a clear signal to our trade partners around the world that, despite the pandemic, the United Kingdom remains open for business.

I also want to underline, for the benefit of the Committee, the fact that the Government do not need to implement export restrictions pursuant to the United Kingdom’s international obligations by making regulations under the retained EU regulation as amended by this statutory instrument. Other more specific legislation provides the appropriate powers with which to do that. For example, restrictions that apply to exports of arms are provided for under the well-established statutory regime under the Export Control Act 2002. In addition, article 10 of the retained EU regulation does not preclude the use of export restrictions where that is required for the purposes of public policy.

For the benefit of the Committee, may I point to role that Parliament will play in overseeing any measures that are put into effect under the EU regulation, as amended by the regulations, which is clearly set out in Article 7A? That explains that any such measures must be contained within a statutory instrument and describes the nature of parliamentary involvement where Parliament can annul measures in some circumstances and can vote on the regulations in others.

This statutory instrument is subject to the affirmative resolution procedure because it transfers to the Secretary of State a power to legislate that currently sits with the European Commission, namely the power to put export restrictions into effect in Great Britain in certain circumstances. I commend the regulations to the Committee.

The Chair: I call Bill Esterson.

9.29 am

Bill Esterson (Sefton Central) (Lab): Thank you—are you Sir James?

The Chair: Not yet; only a matter of time. In the post.

Bill Esterson: Yes, I am sure, especially when you give four and half hour speeches on twinning arrangements with other countries. It is a pleasure to serve under your chairmanship, Mr. Gray.

I am grateful to the Minister for his concise explanation of the common rules for exports and the implementation of the export control regulations transposed from EU law. The Minister flagged up a number of questions, because the use of export controls is not exercised lightly, has consequences and invites other countries to impose similar controls. We have seen that happen in the time period to which the Minister referred. As the Minister said, we saw shortages around the world in medicines and we all remember the concern about the shortage of paracetamol in this country. The Minister referred to the review of licence applications and the EU’s restrictions on PPE exports, which we also adopted. One of the consequences may well have been our difficulty in acquiring PPE from around the world—the plane loads of inadequate PPE from Turkey and a company registered in Mauritius, and inadequate and unsuitable face masks.

It is clear, therefore, that such controls are not to be exercised lightly and may invite retaliation, if not prompt other countries to take a view of us that is not in our interests. As Alan Winters of the Trade Policy Observatory has said, it is important that we acknowledge the role of reciprocal trade in our own fortunes, and acknowledge how important it is that we have strong bilateral relations, especially with our biggest trading partners – the largest being the EU. As a consequence of some global actions during the coronavirus crisis we have recognised that we need to drop import tariffs on soap and sanitisers—the example that most readily springs to mind. They also reinforce the need for a balance between a reliance on imports and investment in our domestic manufacturing industries. An over-reliance on imports has serious consequences if we are unable to secure essential supplies, and if other countries apply export controls as a result of our actions.

In terms of the application of the regulations by the Secretary of State, I have some questions about the Northern Ireland protocol. The House of Lords Secondary Legislation Scrutiny Committee raised concerns with the Department for International Trade about the exercise of the regulations. The Department noted that the European Commission will still have the ability to impose export restrictions under the protocol, but that it would only be involved under the aegis of the convention on international trade in endangered species of wild fauna and flora – CITES. The Department said that there would be negligible implications for trade as a whole. I would be grateful if the Minister confirmed that that is his understanding, and that there is no prospect of any kind of blockade as a result of the Northern Ireland protocol and the impact of the regulations. That prompts the question about why so much fuss was made about that particular issue in the Internal Market Bill.

That leads on to the Minister's other point about the role of Parliament and the implementation of the regulations. He said that the regulations would be laid in a statutory instrument, and that Parliament has the right to vote on them and to annul them. Will that always be the case? Will the exercise of the regulations always be subject to consideration by a SI Committee? The Minister said that the supply of PPE involved the review of the licence applications from various exporters. Can he confirm that a similar process will be used by the Secretary of State in future, and if not, what is the alternative? What evidence will be published in advance of a SI calling for parliamentarians to approve the Government's proposed actions? Labour, including we few on the Opposition Benches today, has expressed significant concern about how legislative scrutiny is being exercised in this Parliament. We voiced that concern when the Trade Bill was under consideration. Given the impact on vital supplies, our exporters and imports, we are anxious that Members of Parliament are able to scrutinise properly regulations such as those before us today. Can the Minister flesh out for us what evidence base will be provided by the Secretary of State, and what will be in the public domain, so that Members can make informed decisions?

The Minister said that the regulations represent a small technical change, and I do not disagree but such changes can have profound implications and consequences on implementation. It is important that we scrutinise the regulations properly. I would be grateful if the

Minister offered some assurance about the implications of the Northern Ireland protocol and the exercise of parliamentary scrutiny.

9.37 pm

Graham Stuart: I am grateful to the hon. Member for Sefton Central for his contribution. In so far as that was a shift in Her Majesty's Opposition in support of unfettered trade, I welcome that change in direction.

Bill Esterson: Really? You were going to say that whatever I said, Graham.

Graham Stuart: Well, I am welcoming a more moderate direction, and if that stretched all the way to the shadow Secretary of State, that would be good. I am breaking the golden rule of a Minister taking through an SI which is not to unnecessarily and needlessly provoke the Opposition. I am failing on lesson one at the start of my response.

The hon. Gentleman mentioned over-dependence on imports; we believe in diversity of supply rather than that there can be an over-dependence on imports. We believe in free and open trade, and I hope that the hon. Gentleman's opening remarks are not negated by his other comments.

On the negligible impact on trade of goods from Northern Ireland, article 6 of the Northern Ireland protocol states that there can be no fetter on the movement of goods between Northern Ireland and Great Britain, excepting under international obligations. After assiduous research, which is typical of the hon. Gentleman, he has identified the issue of endangered animals, but no such international obligations are currently in place, and if they were, the UK Government would seek to implement them along with the EU. We do not expect any change from the current position.

As to the manner in which changes are to be made, the Secretary of State has the authority to implement article 5 powers, which relate to an urgent situation such as we saw earlier this year. I know that the hon. Gentleman would fully support that. The Secretary of State would exercise those powers on the basis that either House could annul any such measure simply by passing a motion against the use of that power. In any case, those emergency powers would last at most for six weeks. I hope that he accepts that that represents a proportionate and sensible response to an urgent situation.

Bill Esterson: I am grateful for that helpful explanation, but perhaps I can pick up the point about information that would be in the public domain to enable Members of either House to make informed decisions. Hopefully, we would avoid getting to the point where either House might want to annul such a measure.

Graham Stuart: Information on the powers and the actions that are taken would be publicly available alongside other information, the precise extent of which I am not currently in a position to share. The measures will be shared with Parliament and it will be possible, as I have said, to annul them if either House is not happy with them. Under powers under article 6, there are no time limits set, unlike the six-week maximum under article 5, but those powers are subject to an affirmative SI. If

[Graham Stuart]

something is introduced for the longer term, it will have to come before a Committee of the House, such as this one, and be passed that way.

I think I have pretty much covered all the issues raised. I cannot give the specifics as I do not have them, but the information will be provided when the measure comes before the House, which will be able to verify it,

look at it and make a decision. I hope that satisfies the hon. Gentleman that it will be an open process. As I have said, the regulations introduce a technical change, merely to bring into UK law that which subsists under European law.

Question put and agreed to.

9.42 am

Committee rose.

