PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT TIMBER AND TIMBER PRODUCTS AND FLEGT (AMENDMENT) (EU EXIT) REGULATIONS 2020

Wednesday 4 November 2020

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Sunday 8 November 2020

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Chair: MARK PRITCHARD

† Baynes, Simon *(Clwyd South)* (Con)
† Buchan, Felicity *(Kensington)* (Con)
Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Champion, Sarah *(Rotherham)* (Lab)
Cooper, Rosie *(West Lancashire)* (Lab)
† Daly, James *(Bury North)* (Con)
† Davies, David T. C. *(Parliamentary Under-Secretary of State for Wales)*
† Fletcher, Colleen *(Coventry North East)* (Lab)
Grady, Patrick *(Glasgow North)* (SNP)
† Jones, Fay *(Brecon and Radnorshire)* (Con)
Keeley, Barbara *(Worsley and Eccles South)* (Lab)
† Logan, Mark *(Bolton North East)* (Con)
† Mayhew, Jerome *(Broadland)* (Con)
† Morris, James *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Greg *(Buckingham)* (Con)
† Trott, Laura *(Sevenoaks)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Hannah Bryce, *Committee Clerk*

† attended the Committee

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[Mark Pritchard *in the Chair*]

Draft Timber and Timber Products and FLEGT (Amendment) (EU Exit) Regulations 2020

2.30 pm

The Lord Commissioner of Her Majesty's Treasury (James Morris): I beg to move,

That the Committee has considered the draft Timber and Timber Products and FLEGT (Amendment) (EU Exit) Regulations 2020.

The regulations were laid before the House on 5 October and amend the Timber and Timber Products and FLEGT (EU Exit) Regulations 2018, on the trade in timber and timber products. The technical amendments in the statutory instrument address deficiencies that have arisen since the 2018 exit regulations were made. They relate, in addition, to the implementation of the Northern Ireland protocol. The minor amendments in the statutory instrument will ensure that the regulations for the trade in legally harvested timber will operate effectively in the United Kingdom.

I should make it clear that all the amendments made by the statutory instrument are technical operability amendments and do not introduce any policy changes. The policy is considered to be reserved, and we have worked with the devolved Administrations on the regulations.

The licensing regulations address the issues of illegally harvested timber through two measures. On the supply side, the FLEGT regulations provide for a licensing regime with countries that have entered into a partnership agreement, allowing them to issue licences that prove legality of harvest. On the demand side, the timber regulation prohibits the placing on the market of illegally harvested timber and requires businesses to exercise due diligence on timber to ensure its legality.

Illegal logging is a significant driver of deforestation, which is a major contributor to climate change and leads to the loss of biodiversity and critically important ecosystem services. It directly affects rural communities that rely on forests for livelihoods, and results in revenue loss for Governments and legitimate businesses. The timber regulation and FLEGT licensing system are therefore vital tools in preventing the illegal trade in timber and the associated economic, environmental and social costs.

The main purpose of the statutory instrument is to make amendments to the 2018 exit regulations, to facilitate operability within the context of the Northern Ireland protocol. That is achieved by substituting, in several instances, "Great Britain" for "the Community" and "the United Kingdom". There are several instances in which references to the United Kingdom are retained from the 2018 regulations. That is to do three things: first, the definition of a "partnership agreement" in the UK FLEGT regulations will continue to refer to an agreement with the UK. The UK reference is necessary because a partnership agreement is a treaty, and only the UK may enter into treaties with other states.

Secondly, for the purposes of the UK timber regulation, reference to the UK defines the market on which timber is placed in the United Kingdom. If that market were to be defined as Great Britain, it would have the effect of imposing the obligation to exercise due diligence on businesses importing timber from Northern Ireland to England, Scotland or Wales. That would represent a new check on goods moving from Northern Ireland to Great Britain, so the definition "the United Kingdom" is retained.

The third retention of "the United Kingdom" is in relation to monitoring organisations. Those are approved businesses that are able to offer access to their due diligence systems to those placing timber on the market. The regulations set out requirements in relation to where businesses must be legally established if they are to apply to be a monitoring organisation. If this area were to be defined as Great Britain, it would preclude businesses in Northern Ireland from being able to apply to be a monitoring organisation under the UK regulations. As such, the definition "the United Kingdom" has been retained.

This instrument also amends the dates on which the first reports on the UK timber and FLEGT regulations are required. This is to ensure an appropriate amount of time between the implementation of the regulations and the first report being produced. Without that amendment, the first report would be due just three months after the regulations came into force.

The regulations also correct a typographical error in the 2018 exit regulations by changing "in" to "by" in relation to sanctions imposed by the United Kingdom on timber imports or exports.

This instrument also amends the reporting period for the FLEGT regulation to the calendar rather than financial year, to bring it in line with other reporting schedules. This amendment was necessary to deal with an amendment to the EU regulations made after our 2018 exit statutory instrument.

Finally, the instrument substitutes "IP completion"—for the implementation period—for "exit" in the context of the date at which existing monitoring organisations established in the UK will retain recognition. This change is simply to correct a deficiency that has arisen since the 2018 exit regulations.

This instrument has always been intended for the affirmative procedure. Both the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee have formally considered the instrument without comment. The instrument was not subject to consultation as it does not alter existing policy.

In line with published guidance, there is no need to conduct an impact assessment for this instrument, as no, or no significant, impact on the private or voluntary sectors is foreseen. The instrument relates to the maintenance of existing regulatory standards, and the cost of any direct impact from the instrument falls under £5 million. The territorial extent of this instrument is the United Kingdom. This is considered a reserved policy; devolved Administrations were engaged in the development of the instrument and are content.

The office for product safety and standards—part of the Department for Business, Energy and Industrial Strategy—is the delivery body for the regulations and will continue in that role for both Northern Ireland and Great Britain. It has been involved in the development of the instrument and has no concerns relating to implementation or resources. Its expertise in the enforcement of the regulations, and its history of working with businesses to understand and meet their obligations, will ensure a consistent and transparent transition.

The UK has a long and proud history of work in this area, and the Government's 25-year environment plan has made clear our commitment to support and protect international forests. These regulations will ensure that we can continue to protect valuable global resources, safeguard the livelihoods of some of the world's most vulnerable people, and contribute to tackling climate change. I commend the draft regulations to the Committee.

2.38 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to under your chairmanship, Mr Pritchard, and it is very good to see the Minister in his place. I commend him on his very full introduction and I pass my good wishes to his colleague, the Under-Secretary of State for Environment, Food and Rural Affairs, the hon. Member for Taunton Deane (Rebecca Pow), who we look forward to seeing tomorrow to continue discussions.

This all sounds very straightforward, as of course we are all in favour of reducing illegal logging. It is perhaps worth starting with the European Timber Regulations 995/2010, which the UK was at the forefront of helping to create. It says in its introduction:

"Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation and forest degradation, which is responsible for about 20 % of global CO_2 emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. It also contributes to desertification and soil erosion and can exacerbate extreme weather events and flooding. In addition, it has social, political and economic implications, often undermining progress towards good governance and threatening the livelihood of local forest-dependent communities, and it can be linked to armed conflicts."

This is a big, important issue, although it may seem at first sight to be a fairly dry one. We also commend the Government for taking further steps to tackle illegal logging abroad by consulting on due diligence on forest risk commodities. Although the Government may be doing well on that, I gently point out that they are not doing quite so well at home, either on meeting the tree planting targets or on environmental protections, which are being decimated by the Environment Bill.

Once again, we are noticing errors and deficiencies in these SIs. I have huge sympathy for those who draft them, because they are very complicated, but it would be useful to know whether the Department is tracking the number of errors that we have to deal with. I should point out that I do not expect the Minister to have all the answers to my questions this afternoon—I quite understand the situation.

I take issue slightly with some of the points about there being no need for consultations because the instrument does not alter existing policy and has no impact on business. We hear those points in a succession—if we track back, the same was said for the previous instrument, which this one amends—and frankly, out in the real world, that seems absolutely laughable. For those involved in the trade, everything to do with this whole area has led to more bureaucracy, more duplication, more complexity and inevitably more cost.

David Hopkins, chief executive of the Timber Trade Federation, told me that he supports the introduction of UK timber regulation:

"However this will increase bureaucracy for members (on top of many other layers of increased bureaucracy). At present, any goods originating from or being imported into the EU are subject to due diligence by the "First placer", i.e the company that first places the goods on the market. The goods can then be traded freely among the other members of the Single Market."

He provided an example:

"If hardwood from West Africa is imported to a warehouse in Belgium, the Belgian importer would conduct due diligence for this. That Belgian company could then sell it to a UK importer without the UK importer having to conduct further due diligence. This is because the EUTR sees the whole of Europe as having "one" (or the same) risk profile.

Now, under the UKTR, we will no longer be able to trade freely. This will mean having to conduct due diligence on ALL imports from Europe where currently there is none. Secondly, it will mean treating different countries as having different risk profiles (e.g. rather than seeing Sweden and Poland as both being "part of Europe" we will have to separately evaluate the risks inherent in each. It is another layer of bureaucracy most business could do without! It is also a doubling up of efforts which have already been conducted within the EU and now repeated in the UK on the same goods."

Minister, please, let us have some real-world analysis of the harm that these changes do; just saying "there is no impact" is not good enough.

Sadly, that is not the end of the harm being done, because the voluntary partnership agreement negotiated by the European Union with tropical countries, particularly in the Congo basin, has been crucial to forest preservation. Again, the Timber Trade Federation has said:

"We are very saddened and angry that the UK will lose its decision making voice within the EU about this important area of climate and forest protection. The UK was a leading advocate and really pioneered this ground-breaking approach. Right now, the UK should be showing leadership, not walking away from the table where decisions are made."

The changes do not just mean more bureaucracy and more cost, they mean no influence. Will the Minister tell us just how the UK plans to work with those VPAs? Are we to set up parallel agreements? How much will that cost? Will we need duplicate monitoring systems, and again, at what cost? What will we do through the UN Food and Agriculture Organisation to regain lost ground?

The Northern Ireland issue is a detail that the SI tries to address. The Timber Trade Federation described the situation as "an enormous headache", as Northern Ireland businesses will face having to do due diligence on goods coming in from Great Britain, opening up a potential weak spot for smuggling, and because there will be widespread confusion about goods that used to be marked with the longstanding CE designation will have to be marked UKCA—UK conformity assessed. Who knew that this would be so complicated?

I do not expect the Minister to have all the answers, but the regulations were discussed the other day in the House of Lords, where some questions were raised, so let us try some of those. The Liberal Democrat spokesperson queried whether NI companies could use

[Daniel Zeichner]

only monitoring organisations on the approved EU list. The rather elliptical reply from the Minister in the other place was:

"officials are not yet able to provide a forensic answer"—[*Official Report, House of Lords,* 27 October 2020; Vol. 807, c. 180.]

I love that. I ask, one week on, whether the officials any closer? In fact, a July 2020 note from the European Commissioner throws some light on that issue, and I am grateful to Clotilde Henriot of ClientEarth for drawing my attention to it.

My Labour colleague in the Lords pressed the Minster there on the voluntary partnership agreements, and I echo her questions, including on the key matter of divergence. If the EU makes new or improved agreements, will we mirror them, do we follow them, do we have any influence on them, and what are the follow-on impacts on Northern Ireland? The Minister in the Lords revealed that a further instrument will be introduced in January 2021, relating to the FLEGT scheme in Indonesia. My understanding is that the UK already has a VPA with Indonesia that dates from April 2019. If the regulations need amending because of Brexit, what happens between 1 January and the date that the instrument takes effect?

What of the other VPAs that the EU already has in place with Cameroon, the Central African Republic, Ghana, Indonesia, Liberia, the Democratic Republic of Congo and Vietnam, as well as those that have already been initiated with Guyana and Honduras, and those under negotiation with Côte d'Ivoire, Gabon, Laos, Malaysia and Thailand? When my colleague queried the impact on Northern Ireland if the UK and EU diverge on VPAs, the Minister in the Lords cheerily admitted:

"There are questions that remain unanswered".—[*Official Report, House of Lords,* 27 October 2020; Vol. 807, c. 181.]

Frankly, that really is not good enough, some three or four weeks out.

In his opening statement, the Minister gave us some explanation of how some of this might be resolved. Paragraph 7.3 of the explanatory memorandum states:

"In order to ensure unfettered market access between Northern Ireland and GB, through the avoidance of new checks, the definition of the internal market has been retained as the United Kingdom."

When I read the detail of the instrument, I was not entirely sure how that was put into effect. I have read those lines many times. It seems that the Government are saying that, for those purposes, the GB-NI divide that has been created is somehow wished away and we are treated as one. I am not quite sure how that will be achieved, and although I recognise that the Minister might not have an immediate answer, I would be grateful for a written explanation, not least because the matter is one of the major conundrums that we face, and it cannot just be wished away.

2.46 pm

James Morris: I thank the shadow Minister for his characteristically detailed contribution. He asked how the UK intends to work with voluntary partnership agreements. I will write to him on that. He also raised a number of issues to do with the Northern Ireland protocol. Again, I will write to him with an explanation of how the instrument operates with the protocol, if that is satisfactory to him.

Daniel Zeichner: Of course.

James Morris: The instrument would make no change to the existing policy to tackle the trade in illegally harvested timber. The Government's 25-year environment plan sets out our continued commitment to protecting and restoring the world's forests and to supporting sustainable agriculture. The instrument would ensure that we have the operable regulations that we need to address that.

As I have outlined, all the changes that the instrument would introduce are technical operability amendments to ensure that we can continue to operate the regulations and protect global forest resources after the end of the transition period. I commend the regulations to the Committee.

Question put and agreed to.

2.48 pm

Committee rose.