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for Environment
Food & Rural Affairs

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Lord Wallace of Tankerness
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22nd October 2018

Dear Tim,

Thank you for your contribution to the debates at the Committee Stage of the Ivory Bill. I undertook to write to you about the statutory basis of the Office for Product Safety and Standards (OPSS) and the regulations underpinning their enforcement activity.

OPSS was formed in January 2018, bringing together the staff and functions of the BEIS Regulatory Delivery Directorate, and the National Measurement and Regulation Office (NMRO). NMRO already has an expanded product safety remit and has been delivering on behalf of Defra and other government departments since 2006.

As part of a central government department, OPSS officers are directly accountable to the Secretary of State for Business, Energy and Industrial Strategy (BEIS), who is accountable to Parliament for OPSS's activities in the usual way. OPSS is also accountable to other government departments through Memoranda of Understanding for which it provides enforcement services, the bodies and businesses that it regulates, and others such as consumers. Effective accountability mechanisms are in place - for example, transparency of compliance and enforcement policies, performance reporting, and complaints and appeals mechanisms. In line with the statutory principles of good regulation and with the provisions of the Regulators' Code, OPSS is committed to being transparent about its regulatory approach and its regulatory activities. In doing so it maintains a published list of the statutory enforcement actions that it has taken and publishes an annual report relating to its enforcement activities.

OPSS has been chosen as one of the bodies that will be responsible for implementing the ivory ban. It operates at a UK level and currently holds responsibility for enforcing a range of regulations on behalf of Defra and other government departments. I agreed to provide some examples of these regulations and further information on the role of OPSS. The examples and a full list can be found in Annex A.

On behalf of Defra, OPSS enforces the regulations relating to the restriction of hazardous substances: The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Regulations 2012 (as amended). These regulations cover most electrical and electronic equipment and the maximum prescribed levels of certain heavy metals and flame retardants that they are allowed to contain. The enforcement responsibilities carried out by OPSS include providing support and guidance, monitoring compliance, carrying out

inspections and taking enforcement action. These are supported through the provision of powers that allow authorised officers to enter premises, and inspect products. These UK regulations (and other regulations mentioned in this letter in relation to other EU legislation) use section 2(2) of the European Communities Act 1972 to implement Directive 2011/65/EU of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

Another example of OPSS's enforcement activities relates to timber supply chains to ensure traded timber and timber products originate from legal sources. On behalf of Defra, OPSS enforces The Timber and Timber Products (Placing on the Market) Regulations 2013 and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulations 2012 (as amended). OPSS enforce these regulations in the UK, checking that appropriate records are maintained by traders and operators, verifying licences and taking enforcement action.

The above UK regulations put in place provisions contained in Commission Implementing Regulation (EU) No 607/2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market as the Annex to it is amended from time to time. The FLEGT regulations put in place provisions contained in Commission Regulation (EC) No 1024/2008 laying down detailed measures for the implementation of Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community.

I shall be placing copies of this letter in the Libraries of both Houses.

*Yours ever,
R. H.*

Annex A – Environmental Regulations enforced by the Office for Product Safety and Standards

The Alternative Fuels Infrastructure Regulations 2017 (SI 2017/897)

The Batteries and Accumulators (Placing on the Market) Regulations 2008 (SI 2008/2164)

The Ecodesign for Energy-Related Products Regulations 2010 (SI 2010/2617)

The End-of-life Vehicles Regulations 2003 (SI 2003/2635)

The Energy Information Regulations 2011 (SI 2011/1524)

The Forest Law Enforcement, Governance and Trade Regulations 2012 (SI 2012/178)

The Heat Network (Metering and Billing) Regulations 2014 (SI 2014/3120)

The Nagoya Protocol (Compliance) Regulations 2015 (SI 2015/821)

The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001 (SI 2001/1701)

The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Regulations 2012 (SI 2012/3032)

The Timber and Timber Products (Placing on the Market) Regulations 2013 (SI 2013/233)

The Waste Batteries and Accumulators Regulations 2009 (SI 2009/890)

The Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3113)