



Non-AIB Gos/ Bilateral recognition via ex-domain cancellation

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28th November 2019

Agenda

- Eneco case: import (EDC) of UK GOs (REGOs)
- Timeline: from initial refusal, courtcase, to acceptance under conditions
- Courtcase: arguments for acceptance
- **Practical solution: terms & conditions for EDC import**
- **Importance of harmonisation: EECS-rules and AIB-membership**

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CertiQ & the NL GO market

- Issuing Body in fast-moving (frontrunner) market
 - Demand from consumers & businesses (PPA) exceeds supply
 - Net importer
 - Dutch GO market is under pressure: traders/suppliers are looking for (cheap) GOs
- = background for (attempts to) import non-AIB GOs

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CertiQ's stance towards non-AIB Gos: A Summary

- “Old”** Only GOs from AIB-affiliated countries accepted. This stance was challenged by Eneco. Court ruling: CertiQ should accept REGOs
- “New”** GOs from non-AIB-affiliated countries accepted, (1) under certain circumstances and (2) after careful vetting

This case highlights the importance of **harmonisation** through **AIB-membership** and the implementation of/compliance with **EECS-rules**

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Initial refusal

CertiQ's initial refusal was based upon three arguments:

1. No certainty that REGOs were **similar in nature and scope** (difference with AIB-GOs). Based on Article 76 of the NL Electricity Act: “foreign GOs are assimilated to Dutch ones, if they are similar in nature and scope”
2. **Lack of infrastructure** to import GOs: all imports/exports go through the AIB-hub (not bilaterally between countries)
3. No mechanisms in place for the **Regulator** (ACM) to have oversight on bilateral import (outside of the AIB-hub)

Conclusion import of UK REGOs not possible. Eneco: push for Ofgem's AIB-membership

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Court ruling

- Eneco requested for an interim injunction to **recognise the batch UK REGOs**
- Decision by the provisional relief court of the Trade and Industry Appeals Tribunal: CertiQ must recognise this batch REGOs:
 1. Court gave priority to freedom of goods/services between EU-member states
 2. Referral to the sections in Dutch Regulations in which Art. 15.9 2009/28/EC is implemented:
 9. Member States shall recognise guarantees of origin issued by other Member States in accordance with this Directive exclusively as proof of the elements referred to in paragraph 1 and paragraph 6(a) to (f). A Member State may refuse to recognise a guarantee of origin only when it has well-founded doubts about its accuracy, reliability or veracity. The Member State shall notify the Commission of such a refusal and its justification.

The court was not convinced that there were sufficient (well-founded) doubts about the **accuracy, reliability or veracity** of the UK REGOs **that could not be mitigated by additional measures.**

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Policy Guidelines

Court ruling applied to Eneco request only. But to prevent new judicial processes, CertiQ published policy rules based on which recognition of UK GOs becomes possible.

Import of Guarantees of Origin

- GO's issued by AIB-members are **directly accepted** because AIB membership provides assurance that these GOs **comply with NL laws & regulations** and therefore are **accurate, reliable** and **veracious**.
- Such certainty is not given for **non- AIB GOs**. Hence, CertiQ will **check every individual batch of non-AIB GOs** to find out of the nature and scope of the GOs in question are equal to NL GOs (*as required by law*). **This check takes effort and time.**
- UK regulations on GOs show differences with the Dutch regulations regarding:
 - the period of validity of GOs,
 - the point of measurement, the moment of processing of GOs in the national trade mix and;
 - auxiliary use of the production installations
- Recognition of UK GO's no longer possible from **Brexit** day.

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Policy Guidelines

Guarantees of Origin from the UK (REGOs): Practical Implementation

- “import” via Ex-Domain Cancellation: “cancelled for use in the NL”
- Retired GOs that have been cancelled in the UK for use in NL **cannot be traded on or cancelled afterwards.**
- In line with the RE-DISS methodology as applied by the Authority for Consumers and Markets (regulator), **CertiQ will treat an ex-domain cancellation as import and cancellation and charge the trader in accordance with the corresponding rates** for import and cancellation.
- CertiQ will verify the submitted ex-domain cancellations with Ofgem at least once every 3 months. If it turns out that the number of verified GOs differs from the number of GOs submitted through an ex-domain cancellation, the number of verified GOs shall be leading.
- Verified GOs imported from Great Britain may be used for the supply of renewable electricity to end users as reported via the fuel mix disclosure (Dutch: 'stroometiket').

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Importance of harmonisation

- This case highlights the importance of harmonisation through AIB-membership and the implementation of/compliance with EECS-rules
 - Certainty about the “accuracy, reliability or veracity” (2009/28/EC art. 15.9)
 - GOs from AIB-countries can be imported and used directly
 - Oversight from regulators
 - Disclosure to consumers

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Thank you!



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