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STATUTORY INSTRUMENTS

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**2020 No. 1438**

**The Trade Preference Scheme (EU Exit) Regulations 2020**

**PART 1**

**General**

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Trade Preference Scheme (EU Exit) Regulations 2020.

(2) These Regulations come into force on such day as the Treasury may by regulations under section 52 of the Act appoint (“the appointed day”).

(3) These Regulations extend to the United Kingdom.

(4) These Regulations apply to goods—

(a) that are imported into the United Kingdom in respect of which a liability to a charge to import duty is incurred under the Act; and

(b) in respect of which a claim is made for a preferential rate of import duty to be applied to the goods under the trade preference scheme established by these Regulations.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Taxation (Cross-border Trade) Act 2018;

“COCGTP Regulations” means the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020(1);

“Tariff Regulations” means the Customs Tariff (Establishment) (EU Exit) Regulations 2020(2);

“EU GSP” means Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008(3);

“additional import duty” has the meaning given in regulation 24(3)(a);

“agricultural duty rate” means an applicable additional rate of import duty relating to agricultural components, duties for sugar and duties for flour that is fixed in accordance with Element 4 of the customs tariff, as provided for by regulation 2(5) of the Tariff Regulations;

“appointed day” has the meaning given in regulation 1(2);

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(1) [S.I. 2020/1436](#)

(2) [S.I. 2020/1430](#)

(3) OJ No L 303 31.10.2012, p.1. Regulation (EU) No 978/2012 is direct EU legislation, incorporated into the law of the United Kingdom by section 3 of the European Union (Withdrawal) Act 2018, except that it will cease to have effect on the commencement of paragraph 1(1) of Schedule 7 to the Act.

“arms and ammunition” mean goods that are specified under the chapter heading “arms and ammunition” in the Goods Classification Table;

“assessment notice” has the meaning given in regulation 28(1);

“by-value duty expression” means an applicable duty expression given only as a number and percentage in the Tariff Table;

“commodity code” has the meaning given in regulation 2(3) of the Tariff Regulations;

“compound duty expression” means an applicable duty expression in the Tariff Table that—

(a) includes both a by-value duty expression and a specific duty expression; and

(b) contains an addition sign before or after the by-value duty expression;

“country” means a country or territory;

“cumulation” means a system whereby goods that are obtained in two or more countries are to be regarded as originating from the last country in which substantial processing of the goods has taken place;

“customs cooperation notice” means a notice published under regulation 20(1);

“declaration acceptance date” means the date on which HMRC provides, or is deemed to provide, a notification constituting acceptance of a customs declaration for the purposes of section 4(1) of the Act;

“EF” means the enhanced framework which forms part of the GSP (see regulation 3);

“EF admission notice” has the meaning given in regulation 17(7);

“EF country” means a country to which the EF applies under regulation 8;

“EF goods” means goods to which the EF applies under regulation 10(4);

“GF” means the general framework which forms part of the GSP (see regulation 3);

“GF country” means a country to which the GF applies under regulation 7;

“GF goods” means goods to which the GF applies under regulation 10(3);

“GF rate” means the GSP rate specified for GF goods under regulation 13;

“goods” means goods or any description of goods;

“Goods Classification Table” has the meaning given in regulation 1(2) of the Tariff Regulations;

“goods graduation notice” means a notice published under regulation 22(1) that suspends the GSP rate pursuant to Grounds specified in Schedule 3;

“GSP” means the Generalised Scheme of Preferences which is the trade preference scheme established under regulation 3;

“GSP classification” means the chapter, heading, sub-heading or commodity code of the Goods Classification Table used in column 3 of the GSP Specified Goods Table to classify GSP goods;

“GSP country” means a country to which a framework of the GSP applies under Part 3;

“GSP framework” means a framework forming part of the GSP (see regulation 3);

“GSP goods” has the meaning given in regulation 10(1);

“GSP rate” means a preferential rate of import duty under Part 6;

“GSP section” means a division of the GSP Specified Goods Table, that—

(a) is specified in column 1 of that Table; and

(b) modifies the sections of the Goods Classification Table;

“GSP Specified Goods Table” means the table in Part 2 of Schedule 5;

“import review period” means a period of three years during which the value of imports of GSP goods is measured and which begins with 1st January;

“LDCF” means the least developed countries framework which forms part of the GSP (see regulation 3);

“LDC” means a country listed in Part 2 of Schedule 3 to the Act as a least developed country;

“LDCF goods” means goods to which the LDCF applies under regulation 10(2);

“qualifying GSP country” means a GSP country that satisfies the qualification rules in regulation 4(1);

“qualifying GSP goods” means GSP goods that satisfy the qualification rules in regulation 4(2);

“representations period” means the period specified in a warning notice, during which representations can be made under regulation 27(2)(b);

“Schedule 2 conventions” has the meaning given in regulation 15(1)(b);

“specific duty expression” means an applicable duty expression in the Tariff Table that—

- (a) includes a monetary value;
- (b) does not include a percentage symbol; and
- (c) may include an agricultural duty rate;

“standard rate of import duty” has the meaning given in regulation 2(4) of the Tariff Regulations;

“suspension notice” has the meaning given in regulation 29(1);

“Tariff Table” has the meaning given in in regulation 2(6) of the Tariff Regulations;

“trade arrangement suspension notice” means a notice published under regulation 9(1)(b);

“trade preference safeguard measure” has the meaning given in paragraph 1 of Schedule 4;

“trade preference safeguard notice” means a notice published under regulation 23 (1) that applies a trade preference safeguard measure;

“United Kingdom monitoring” has the meaning given in regulation 15(5);

“urgent trade safeguard notice” means a trade preference safeguard notice published in accordance with paragraph 7 of Schedule 4;

“variation notice” has the meaning given in regulation 29(3); and

“warning notice” has the meaning given in regulation 27(1).

(2) In relation to the GSP Specified Goods Table—

(a) the rules of interpretation in regulation 3(1) of the Tariff Regulations and Part 1 of Schedule 5 apply in—

- (i) interpreting the meaning of the chapter, heading, sub-heading or commodity code used in column 3 of the GSP Specified Goods Table; and
- (ii) determining into which of the GSP classifications in column 3 or descriptions in column 4 of the GSP Specified Goods Table the goods most appropriately fall;

(b) “GF code” means a code applied to goods in column 5 of the GSP Specified Goods Table, that begins with the letters “GF” to indicate that—

- (i) those goods are GF goods; and
- (ii) they are subject to rules providing for preferential rates of import duty, under regulation 13;

- (c) “GF1”, “GF2”, “GF3” and “GF4” are the GF codes representing the rules for calculating import duty reductions to be applied to GF goods, under the GF, as specified in regulation 13;
  - (d) “EF code” means a code applied to goods in column 6 of the GSP Specified Goods Table, that begins with the letters “EF”, to indicate that—
    - (i) those goods are EF goods, as provided for in regulation 10(4); and
    - (ii) they are subject to rules providing for preferential rates of import duty under regulation 14; and
  - (e) “EF1” and “EF2” are the EF codes representing the rules for calculating import duty reductions to be applied to EF goods, under the EF, as specified in regulation 14.
- (3) In these Regulations, reference to goods originating from a country is a reference to goods regarded as originating from that country in accordance with the COCGTP Regulations.
- (4) In these Regulations, reference to varying the GSP rate means specifying a GSP rate by notice that is—
- (a) lower than the standard rate of import duty; but
  - (b) higher than the GSP rate otherwise applicable to the goods, as determined in accordance with Part 6.

## PART 2

### Establishment of a Generalised Scheme of Preferences

#### General

- 3.—(1) There is established a trade preference scheme known as the GSP, to be administered by the Secretary of State.
- (2) The GSP consists of three frameworks known as the LDCE, GF and EF and under which a GSP rate (see Part 6) is applied to a GSP country in respect of GSP goods (see in particular Parts 3, 5 and 7).
- (3) The application of a GSP rate may be suspended in accordance with Parts 4, 7, 9 and 10.
- (4) Subject to the qualification rules in regulation 4, a GSP rate may be applied in accordance with the conditions in regulation 5.

#### GSP Qualification rules

- 4.—(1) A country is a “qualifying GSP country” if, on the declaration acceptance date—
- (a) it is a GSP country; and
  - (b) it is not suspended from the GSP by—
    - (i) a trade arrangement suspension notice under regulation 9(1)(b); or
    - (ii) a suspension notice under regulation 21(1)(a).
- (2) Goods are “qualifying GSP goods” if on the declaration acceptance date, those goods—
- (a) are specified in Part 5 as being covered by a GSP framework;
  - (b) are not goods to which a suspension of the GSP rate applies, pursuant to a suspension notice published under—
    - (i) regulation 21(1)(a)(ii);

- (ii) regulation 22(1) (goods graduation); or
- (iii) regulation 23(1) (trade preference safeguard measure); and
- (c) the GSP rate is not suspended by regulation 24(1) due to those goods becoming subject to additional import duty.

### **Conditions to apply a GSP rate**

- 5.—(1) The GSP rate applies to qualifying GSP goods where—
- (a) it is claimed by a person in a Customs declaration and an HMRC officer determines that the GSP rate applies because the goods are the qualifying GSP goods stated on the Customs declaration; or
  - (b) HMRC has made a determination to remit a liability or make a repayment under Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018(4) (“the Import Duty Regulations”), having determined that the GSP rate should have been applied to those goods.
- (2) Paragraph (1) is subject to a subsequent notification by HMRC that—
- (a) a previous notification is null and void under regulation 69 of the Import Duty Regulations; or
  - (b) a Customs declaration is inaccurate under paragraph 14(2) of Schedule 1 to the Act.

## **PART 3**

### **GSP Frameworks**

#### **Least Developed Countries Framework**

6. The LDCF applies to an LDC.

#### **General Framework**

7. The GF applies to a country—
- (a) that is—
    - (i) listed in both Part 3 of Schedule 3 to the Act (in the category of “other eligible developing countries”) and in Part 1 of Schedule 1 to these Regulations; and
    - (ii) not admitted to the EF by a valid EF admission notice; or
  - (b) that is—
    - (i) listed in both Part 3 of Schedule 3 to the Act (in the category of “other eligible developing countries”) and in Part 2 of Schedule 1 to these Regulations; and
    - (ii) suspended from the EF by a suspension notice.

#### **Enhanced Framework**

8. The EF applies to a country—
- (a) listed in Part 3 of Schedule 3 to the Act (in the category of “other eligible developing countries”); and

- (b) either—
  - (i) specified in Part 2 of Schedule 1; or
  - (ii) admitted to the EF by a valid EF admission notice; and
- (c) not suspended from the EF by a suspension notice.

## PART 4

### Other Trade Arrangements

#### **Suspension of country due to other trade arrangements**

**9.**—(1) Where the circumstances in paragraph (2) apply to a GF or EF country, the Secretary of State must—

- (a) suspend the application of the GSP to that country, for a period of up to 2 years; and
  - (b) publish a notice (a “trade arrangement suspension notice”) providing details of—
    - (i) the country to which the suspension applies;
    - (ii) the date on which the suspension begins;
    - (iii) the latest date on which the suspension may end; and
    - (iv) the dates and particulars of relating to the circumstances mentioned in paragraph (2).
- (2) Those circumstances are—
- (a) trade arrangement regulations giving effect to a trade arrangement with the GF or EF country have come into force; and
  - (b) that country was not included in the list of beneficiary countries in Annex II or Annex III to the EU GSP, on the date on which the EU GSP ceased to apply to the United Kingdom, due to an EU preferential market access arrangement being applied.
- (3) In this regulation—
- (a) “EU preferential market access arrangement” means an EU market access arrangement as specified in article 4.1(b) of the EU GSP; and
  - (b) “trade arrangement regulations” means regulations made under section 9 of the Act, in order to implement a trade arrangement between Her Majesty’s government in the United Kingdom and a country or territory outside the United Kingdom.

## PART 5

### GSP Goods

#### **Applying a GSP framework to goods**

**10.**—(1) “GSP goods” means goods to which a GSP framework applies, in accordance with this Part.

- (2) The LDCF applies to goods that—
  - (a) originate from an LDC; and
  - (b) are not arms and ammunition.
- (3) The GF applies to goods that—

- (a) are classified for GSP purposes within a GSP classification in column 3 of the GSP Specified Goods Table and a description given in column 4 of that Table; and
  - (b) have a GF code specified in column 5 of that table applying to that GSP classification.
- (4) The EF applies to goods that—
- (a) are classified for GSP purposes within a GSP classification in column 3 of the GSP Specified Goods Table and a description given in column 4 of that Table; and
  - (b) have an EF code specified in column 6 of that table applying to that GSP classification.

## PART 6

### Specification and determination of GSP rate of import duty

#### General

**11.**—(1) The rules for determination of import duty in regulations 13 and 14 are subject to the general rules in this regulation.

(2) Whenever the application of any other regulation in this Part would result in a GSP rate that is greater than or equal to the standard rate of import duty, no GSP rate applies.

(3) The GSP rate of import duty is to be a nil rate where—

- (a) the standard rate of import duty is a nil rate; or
- (b) the application of a provision specified in this Part to the standard rate of import duty would result in a duty rate that is less than a nil rate.

(4) A reference in this Part to a specific duty expression includes a reference to an agricultural duty rate.

(5) The GSP rate is to be a nil rate, when the application of regulation 13 or 14 results in—

- (a) a GSP rate represented by a by-value duty expression of 1% or less; or
- (b) a GSP rate containing a monetary value or combined monetary value of £2 or less.

(6) Except in a case where the rate is to be a nil rate, the GSP rate applicable is to be rounded down to the first decimal place.

(7) The GSP rate of import duty applied to goods by this Part may be varied by—

- (a) a trade preference safeguard notice; or
- (b) a variation notice under regulation 21(1)(b).

(8) Where such a notice is published—

- (a) regulations 12 to 14 do not apply; and
- (b) subject to paragraphs (1) to (5), the GSP rate is that specified in the notice as applicable to the goods and country specified.

#### Import duty rule – LDCF

**12.** Under the LDCF, the GSP rate of import duty applicable to all goods (except arms and ammunition) is a nil rate.

#### Import duty rules – GF

**13.**—(1) The GSP rate of import duty on GF goods is that set out in, or as the case may be, determined in accordance with, the rules in paragraphs (2) and (3).

- (2) The rules are that where—
- (a) “GF1” is specified in column 5 of the GSP Specified Goods Table, the GSP rate of import duty is—
    - (i) the agricultural duty rate if that rate is applicable; or
    - (ii) a nil rate in a case where the agricultural duty rate does not apply;
  - (b) “GF2” is specified in column 5 of the GSP Specified Goods Table, the GSP rate of import duty is the standard rate of import duty, adjusted as follows—
    - (i) the by-value duty expression is reduced by 3.5 percentage points, in a case where that is the only duty expression representing the standard rate of import duty;
    - (ii) the specific duty expression is reduced by 30%, in a case where that is the only duty expression representing the standard rate of import duty; and
    - (iii) the by-value duty expression is reduced in accordance with sub-paragraph (i) and the specific duty expression is not reduced, in a case where the standard rate of import duty is represented by a compound duty expression;
  - (c) “GF3” is specified in column 5 of the GSP Specified Goods Table, the GSP rate of import duty is the standard rate of import duty, adjusted as follows—
    - (i) the by-value duty expression is reduced by 20%, in a case where that is the only duty expression representing the standard rate of import duty;
    - (ii) the specific duty expression is reduced by 30%, in a case where that is the only duty expression representing the standard rate of import duty; and
    - (iii) the by-value duty expression is reduced in accordance with sub-paragraph (i) and the specific duty expression is not reduced, in a case where the standard rate of import duty is represented by a compound duty expression;
  - (d) “GF4” is specified in column 5 of the GSP Specified Goods Table, the by-value duty expression used to calculate the standard rate of import duty is reduced to the by-value duty expression provided for by article 7.3 of EU GSP, as that article applied immediately before the appointed day.
- (3) Whenever “GF2”, “GF3” or “GF4” is specified in column 5 of the GSP Specified Goods Table—
- (a) where the Tariff Table specifies a maximum duty, that maximum duty is not reduced in respect of GF goods; and
  - (b) where the Tariff Table specifies a minimum duty, that minimum duty does not apply in respect of GF goods.

### **Import duty rules – EF**

**14.—**(1) The GSP rate of import duty on EF goods is that set out in, or as the case may be, determined in accordance with, the rules in paragraph (2).

- (2) The rules are that where—
- (a) “EF1” is specified in column 6 of the GSP Specified Goods Table, the GSP rate of import duty —
    - (i) is a nil rate, in a case where the standard rate of import duty is represented only by a by-value duty expression;
    - (ii) is a nil rate, in a case where the standard rate of import duty is represented by a specific duty expression;
    - (iii) is a rate determined by adjusting the standard rate of import duty so that—



- (aa) the specific duty expression applies; and
  - (bb) the by-value duty expression is reduced to a nil rate,  
in a case where the standard rate of import duty is represented by a compound duty expression;
  - (iv) is not to exceed the maximum duty specified in the Tariff Table; and
  - (v) is not subject to the minimum duty specified in the Tariff Table.
- (b) “EF2” is specified in column 6 of the GSP Specified Goods Table, the GSP rate of import duty is determined by adjusting the standard rate of import duty as follows—
- (i) for the by-value duty expression in the Tariff Table, in the case of EF goods under commodity codes 0306 16, or 0306 17, except for EF goods having commodity code 0306 17 94, substitute a by-value duty expression of 3.6%; and
  - (ii) for the by-value duty expression in the Tariff Table, in the case of EF goods having commodity code 0306 17 94, substitute a by-value duty expression of 2.4%.

## PART 7

### Enhanced Framework

#### EF - general

- 15.—(1) For the purposes of the EF, an eligible developing country is a qualifying GSP country that—
- (a) is an economically vulnerable country in accordance with regulation 16;
  - (b) has ratified, acceded to, or otherwise expressed its consent to be bound as a matter of international law by, the conventions specified in Schedule 2 (“Schedule 2 conventions”);
  - (c) is considered by the Secretary of State to be effectively implementing those conventions, in accordance with paragraph (2); and
  - (d) complies with monitoring conditions specified for EF countries in an Enhanced Framework notice provided for by paragraph (3).
- (2) Effective implementation for the purposes of paragraph (1)(c) means that—
- (a) reporting and monitoring requirements specified in Schedule 2 conventions are complied with;
  - (b) the most recent available conclusions of monitoring bodies under those conventions, where appropriate, do not identify a serious failure to effectively implement obligations in those conventions; and
  - (c) the most recent available United Kingdom monitoring does not identify such a serious failure.
- (3) The Secretary of State may publish an “Enhanced Framework notice” for purposes relating to this regulation.
- (4) An Enhanced Framework notice may include—
- (a) information to be provided by eligible developing countries in connection with an application to the EF;
  - (b) conditions that an EF country must comply with in order to participate in and cooperate with United Kingdom monitoring;

- (c) the form of binding undertaking that an EF country may be required to give to the Secretary of State for the purposes of conditions specified in the notice; and
- (d) steps the Secretary of State may undertake relating to United Kingdom monitoring.

(5) “United Kingdom monitoring” means monitoring undertaken by or on behalf of the Secretary of State to monitor effective implementation of the Schedule 2 conventions, for the purposes of the EF.

### **Economically vulnerable country**

16.—(1) An eligible developing country is an economically vulnerable country, for the purposes of regulation 15(1)(a), where—

- (a) subject to paragraph (2), it benefitted from the EU GSP special incentive arrangement for sustainable development and good governance (GSP+)(5) immediately before the appointed day; or
- (b) its mean average imports of EF goods by value into the British Islands (disregarding EF goods in respect of which the standard rate of import duty is a nil rate), over the most recent import review period, satisfied the following—
  - (i) the seven largest GSP sections of those imports, by value, represented more than 75% in value of its total imports of EF goods into the British Islands; and
  - (ii) its total imports of EF goods represented less than 9% in value of such imports from qualifying GSP countries, into the British Islands over the same period.

(2) An eligible developing country may only be regarded as economically vulnerable under subparagraph (1)(a) during the three-year period that begins with the day on which the appointed day falls.

### **Application to the EF**

17.—(1) An eligible developing country that is not an EF country may apply to the Secretary of State for the EF to be applied to it, where it considers that—

- (a) regulation 15(1)(a) and (b) applies;
- (b) it has effectively implemented and will continue to effectively implement the Schedule 2 conventions; and
- (c) it is willing to cooperate with the conditions specified in an Enhanced Framework Notice provided for by regulation 15(3).

(2) Subject to paragraph (3) and an assessment under regulation 26, the Secretary of State must notify the country making an application under paragraph (1) (“applicant country”) within 6 months, following the day on which the application is received, of the outcome of the application in accordance with paragraph (4).

(3) The time period in paragraph (2) may be extended by the Secretary of State notifying the applicant country of—

- (a) further information required or further enquiries to be made before the application can be determined; and
- (b) the period of extension, which may be calculated by reference to receipt of further information.

(4) A notification must, where the Secretary of State determines that the applicant country—

- (a) has not met the criteria in regulation 15(1)(a) to (c), state the reasons for that determination;

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(5) See article 1.2(b) of the EU GSP.

- (b) has met the criteria in regulation 15(1)(a) to (c) but that country needs to take further steps in order to participate in the EF in line with conditions provided for by regulation 15(3) (if appropriate), specify those steps;
  - (c) has met the criteria in regulation 15(1)(a) to (c) and that country does not need to take further steps, specify the reasons for that determination.
- (5) Where paragraph (4)(b) applies and the Secretary of State is subsequently satisfied that the steps specified in the notice referred to in that paragraph have been met the Secretary of State must—
- (a) send a further notification to the applicant country confirming this; and
  - (b) as soon as reasonably practicable thereafter, publish an EF admission notice.
- (6) Where paragraph (4)(c) applies the Secretary of State must, as soon as reasonably practicable after the publication of the notice referred to in that paragraph, publish an EF admission notice.
- (7) An EF admission notice is a notice stating that an eligible developing country, that is not listed in Part 2 of Schedule 1, has qualified for the EF and is to be treated as an EF country.
- (8) An EF admission notice must specify—
- (a) the day from which the EF applies to the applicant country, which must be no later than 28 days after the day on which the notice is published; and
  - (b) the validity period of the notice.

#### **Country determined to no longer be economically vulnerable**

**18.**—(1) Subject to paragraphs (2) and (3), the Secretary of State may publish a suspension notice to suspend the country from the EF where the Secretary of State has determined that country to no longer be economically vulnerable.

(2) Paragraph (1) does not apply for the three year period, that begins with the day on which the appointed day falls.

(3) An EF country may not be suspended from the EF, on the ground specified in paragraph (1), unless—

- (a) the Secretary of State has published a notice containing the information specified in paragraph 4 (“economic vulnerability notice”); and
  - (b) a period specified in that notice under paragraph (4)(c) has expired.
- (4) An economic vulnerability notice must specify—
- (a) the name of the EF country;
  - (b) the fact that the Secretary of State has determined that the country no longer meets the EF economic vulnerability criteria in regulation 16;
  - (c) a period during which the EF will continue to apply to the country;
  - (d) the Secretary of State’s intention to suspend the country from the EF, from the 1st January, following the last day of that period referred to in sub-paragraph (c); and
  - (e) circumstances, if any, that may give rise to a re-consideration of economic vulnerability during that period.

#### **Non-compliance with EF**

**19.**—(1) Where the Secretary of State determines that one or more of the criteria in regulation 15(1)(b) to (d) are no longer satisfied by an EF country, the Secretary of State may publish a suspension notice to suspend that country from the EF.

(2) Before taking an action specified in paragraph (1), the Secretary of State must follow the warning and assessment procedure specified in and provided for by regulation 26.

## PART 8

### Customs cooperation and proof of origin conditions

#### Customs conditions for GSP

**20.**—(1) The Secretary of State may publish a notice providing that the application of the GSP rate is subject to conditions relating to customs cooperation and verification of proof of origin (a “customs cooperation notice”).

- (2) Those conditions may require a qualifying GSP country to—
- (a) provide HMRC with up-to-date stamps, or documents used in its territory to verify the origin of GSP goods;
  - (b) maintain electronic systems to establish or identify the origin of GSP goods;
  - (c) approve persons for the purposes of verifying GSP origin requirements;
  - (d) take steps to implement and enforce GSP origin requirements effectively;
  - (e) take steps to combat customs fraud effectively;
  - (f) implement and enforce systems to ensure that compliance with origin requirements relating to cumulation can be verified;
  - (g) cooperate with the customs authorities of other countries, for purposes relating to cumulation;
  - (h) communicate to HMRC how that country has implemented GSP origin requirements;
  - (i) assist HMRC to investigate contravention of GSP origin requirements;
  - (j) cooperate with HMRC on matters of mutual concern for purposes specified in section 26(1)(a) to (c) of the Act; and
  - (k) allow reasonable access to documents or data (including in electronic form) for HMRC to carry out investigations.
- (3) Such conditions may also include those relating to—
- (a) the form of a binding undertaking that the Secretary of State may require a qualifying GSP country to give for purposes referred to in sub-paragraph (b)(i) and (ii); and
  - (b) the persons to whom that undertaking must be given, being—
    - (i) the Secretary of State or HMRC, for the purposes of customs cooperation with and verification of proof of origin to HMRC; or
    - (ii) the customs authorities of other countries, for the purposes of customs cooperation and verification of proof of origin relating to cumulation with such countries.
- (4) In this regulation reference to “GSP origin requirements” means those requirements that—
- (a) are set out in and provided for by the COCGTP Regulations, to determine the place of origin of qualifying GSP goods;
  - (b) are imposed on persons claiming a GSP rate on qualifying GSP goods; and
  - (c) involve verification or oversight by GSP countries involved in export of, or cumulation related to, those goods.

## PART 9

### Suspension of a country from the GSP or suspension or variation of GSP rates

#### Further conditions for GSP

**21.**—(1) Subject to paragraph (3), paragraph (2) sets out circumstances in which the Secretary of State may publish a —

- (a) suspension notice to—
  - (i) suspend a qualifying GSP country from the GSP; or
  - (ii) suspend the GSP rate on specified GSP goods originating from a qualifying GSP country; or
- (b) variation notice to vary the GSP rate on specified goods originating from a specified country.

(2) The circumstances are that a qualifying GSP country—

- (a) has engaged or is engaging in serious and systematic violations of the human rights and labour rights contained in conventions specified in Part 1 of Schedule 2;
- (b) is engaging in unfair trading practices, after a determination by a competent WTO body that those practices are prohibited or actionable under the WTO Agreement;
- (c) is engaging in export of goods made by prison labour;
- (d) has serious shortcomings in its customs controls on the export or transit of the substances controlled under—
  - (i) the UN Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol<sup>(6)</sup>;
  - (ii) the UN Convention on Psychotropic Substances (1971)<sup>(7)</sup>; or
  - (iii) the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)<sup>(8)</sup>;
- (e) has engaged or is engaging in serious and systematic violations of the principles of international conventions on anti-terrorism and money laundering to which the United Kingdom is a party;
- (f) is seriously and systematically infringing the requirements imposed by regional fishery management organisations or international arrangements to which the United Kingdom is a party, concerning the conservation and management of fishery resources; or
- (g) is seriously and systematically failing to comply with the conditions specified in a customs cooperation notice.

(3) The Secretary of State must follow the warning and assessment procedure specified in and provided for by regulation 26, before publishing a notice under paragraph (1).

(4) In these Regulations—

“WTO body” means a body established under the WTO Agreement; and

“WTO Agreement” means the Agreement Establishing the World Trade Organization, signed at Marrakesh on 15<sup>th</sup> April 1994<sup>(9)</sup>.

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(6) Cmnd. 7466. Available electronically at the Foreign Commonwealth and Development Office treaties database [treaties.fco.gov.uk](https://treaties.fco.gov.uk). A hard copy is available free of charge at the offices of the Foreign and Commonwealth Office, King Charles Street, London SW1A 2AH.

(7) Cmnd. 2307. Available electronically and hard copy, as described above.

(8) Cmnd. 1927. Available electronically and hard copy, as described above.

(9) Cmnd. 3277. Available electronically and hard copy, as described above.

## PART 10

### Suspension or variation of GSP rate on certain goods

#### **Goods Graduation – General Framework**

**22.**—(1) The Secretary of State may publish a goods graduation notice, suspending the GSP rate on specified GSP goods originating from a GF country, where a Ground established in Schedule 3 applies.

- (2) Schedule 3 has effect for the purposes of determining—
- (a) the circumstances in which a goods graduation notice must be published;
  - (b) the contents of a goods graduation notice; and
  - (c) the period of suspension.

#### **Trade Preference Safeguard Measure**

**23.**—(1) The Secretary of State may publish a trade preference safeguard notice to apply a trade preference safeguard measure.

- (2) Schedule 4 has effect for the purposes of determining—
- (a) when a trade preference safeguard measure may be applied by way of publishing a trade preference safeguard notice;
  - (b) the contents of a trade preference safeguard notice; and
  - (c) the procedure for publication of such a notice.

#### **Additional Import Duty**

**24.**—(1) The GSP rate is suspended on GSP goods originating from a GSP country where additional import duty is applied to those goods, pursuant to a notice or regulations referred to in paragraph (2).

- (2) The notices and regulations referred to in paragraph (1) are—
- (a) a public notice published under section 13 of the Act (“dumping of goods, foreign subsidies and increases in imports”);
  - (b) regulations made under section 14 of the Act (“increases in imports or changes in price of agricultural goods”);
  - (c) regulations made under section 15 of the Act (“international disputes etc”); or
  - (d) regulations made under section 51, or section 56 of the Act that make provision for additional import duty.
- (3) In this regulation—
- (a) “additional import duty” means—
    - (i) an import duty applied to goods in addition to the standard rate of import duty; or
    - (ii) a tariff rate quota.
  - (b) “tariff rate quota” has the same meaning as given in paragraph 16(3)(b) of Schedule 5 to the Act, when applied to “relevant goods” as referred to in paragraph 16(2) of that Schedule.

## PART 11

### General provision about notices and warning and assessment procedure

#### General

**25.**—(1) In addition to the information otherwise required by these Regulations, a notice published, or a notification given—

- (a) may contain such other information as the Secretary of State considers appropriate;
- (b) may make different provision for different cases or for different purposes;
- (c) may be amended to include additional or different information; and
- (d) must be made in writing, which may include by electronic means and a requirement to notify is to be read accordingly.

(2) Where a notice is published, or a notification is given under these Regulations that notice or notification—

- (a) may be published or provided in consolidated form with one or more other notices or notifications, as the Secretary of State considers appropriate; and
- (b) may be revoked by a subsequent notice or notification.

(3) For the purpose of these Regulations—

- (a) a notice is published by—
  - (i) posting electronically on <https://www.gov.uk>; and
  - (ii) making a hard copy available for inspection free of charge at the principal offices of HMRC<sup>(10)</sup>; and
- (b) a notification to a GSP country is given to such person or competent body as the Secretary of State considers appropriate in a particular case, by—
  - (i) posting electronically or by hard copy; and
  - (ii) using such address as the Secretary of State considers appropriate, taking account of an electronic or postal address that a GSP country has notified to the Secretary of State for a purpose under these Regulations.

#### Warning and Assessment Procedure

**26.**—(1) Before taking an action specified in paragraph (2), the Secretary of State—

- (a) must follow the warning and assessment procedure specified in paragraph (3) unless otherwise stated in paragraph 2;
- (b) may follow a single warning and assessment procedure for more than one circumstance requiring such a procedure under these Regulations, if the Secretary of State considers this appropriate;
- (c) must follow procedures specified as mandatory in a particular case, in a notice published as provided for by paragraph (4); and
- (d) may follow procedures specified as discretionary in a particular case in that notice.

(2) The actions specified for the purposes of paragraph (1) are—

- (a) the suspension of a country from the EF, as provided for under regulation 19;

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<sup>(10)</sup> HMRC principal offices are at 100 Parliament Street, London, SW1A 2BQ.

- (b) the suspension of a country from the GSP, or the suspension or variation of GSP rates on certain GSP goods originating from that country under regulation 21, except in a case where regulation 21(4) applies ; or
  - (c) the application of a trade preference safeguard measure on GSP goods under regulation 23 except in a case where an urgent trade safeguard notice is published.
- (3) The Secretary of State must take the following steps by way of a warning and assessment procedure—
- (a) publish a warning notice;
  - (b) in the case where the actions referred to in paragraph (2)(a) and (b) are being considered, notify the warning notice to the affected GSP country;
  - (c) carry out an assessment of the circumstances giving rise to the publication of a warning notice;
  - (d) consider in carrying out an assessment—
    - (i) whether the circumstances giving rise to the issue of a warning notice and specified in that notice, continue to apply;
    - (ii) representations received;
    - (iii) in the case of the actions referred to in paragraph (2)(a) and (b), remedial steps taken by the GSP country, relating to the circumstances, since the service of the warning notice; and
    - (iv) in the case of a trade preference safeguard measure, whether the circumstances in paragraph 1(a) and (b) of Schedule 4 apply;
  - (e) conclude the assessment after the end of the representations period or after any other period specified in the warning notice;
  - (f) publish an assessment notice, before the expiry of the validity period (including one extended under regulation 27(3)(c) in a relevant warning notice; and
  - (g) in a case where the actions referred to in paragraph (2)(a) and (b) are being considered, notify the assessment notice to the affected GSP country.
- (4) The Secretary of State may—
- (a) publish a notice making further provision for procedures in relation to warning and assessment, including—
    - (i) procedures that must or may be followed by the Secretary of State; or
    - (ii) procedures that qualifying GSP countries or other persons must follow in order to submit evidence or make representations; and
  - (b) take into account, when carrying out an assessment, other evidence that the Secretary of State considers to be relevant and reasonably available.

### **Warning notice**

- 27.—(1) A “warning notice” means—
- (a) a notice that contains the information specified in paragraph (2); and
  - (b) which is required to be published under regulation 26(3)(a) and where appropriate, notified to a country under regulation 26(3)(b).
- (2) A warning notice must contain the following information—
- (a) the matters leading the Secretary of State to consider whether, as the case may be—



- (i) to suspend a country from the EF, on the grounds that the criteria in regulation 15(1) (b), (c) or (d) are no longer satisfied by an EF country;
  - (ii) to take an action specified in regulation 21(1), by reason of circumstances specified in regulation 21(2); or
  - (iii) to apply a trade preference safeguard measure;
- (b) the period within which representations may be made (“the representations period”) by—
  - (i) a qualifying GSP country specified in the notice;
  - (ii) in a case to which sub-paragraph (a)(i) or (ii) apply, an interested party; or
  - (iii) in a case to which sub-paragraph (a)(iii) applies, a person affected, as defined in paragraph 3 of Schedule 4;
- (c) actions the Secretary of State may take as specified in regulation 26(2)—
  - (i) after the end of the representations period; and
  - (ii) after the issue of an assessment notice.
- (3) The Secretary of State may—
  - (a) serve more than one warning notice (whether or not at the same time);
  - (b) specify different actions under sub-paragraph (2)(c) in such notices; or
  - (c) extend the period of a warning notice, by publishing a further such notice that gives reasons for the extension and in a case covered by regulation 26(3)(b), notifying the country of the extension.
- (4) Unless extended in accordance with paragraph (3)(c), a warning notice is valid for a period which—
  - (a) begins with the day the warning notice is published; and
  - (b) ends on the earlier of—
    - (i) the day on which an assessment notice is published; or
    - (ii) the day that is 12 months after the day of publication.

### **Assessment notice**

- 28.**—(1) An “assessment notice” means a notice that—
- (a) sets out the outcome of the assessment carried out by the Secretary of State under a warning and assessment procedure;
  - (b) is required to be published under regulation 26(3)(f); and
  - (c) when regulation 26(3)(g) applies—
    - (i) is required to be notified to a country; and
    - (ii) may be published and notified with a suspension or variation notice (whether consolidated with such a notice or not).
- (2) Subject to regulation 27(3)(c), an assessment notice must be published before the expiry of the validity period of a warning notice.
- (3) Where these Regulations require the Secretary of State to serve an assessment notice, that notice must state whether the Secretary of State considers it appropriate to—
- (a) take no further action for the time being;
  - (b) undertake further monitoring of compliance with the EF;
  - (c) undertake further review or assessment of—

- (i) compliance with conditions specified in a customs cooperation notice;
- (ii) the circumstances under regulation 21(2) that have led to the publication and notification of a warning notice; or
- (iii) circumstances relevant to the application of a trade preference safeguard measure;
- (d) issue a further warning notice;
- (e) suspend a country from the EF under regulation 19;
- (f) suspend a country from the GSP or to suspend or vary GSP rates on specified goods, under regulation 21;
- (g) publish a trade preference safeguard notice under regulation 23 and Schedule 4.

### **Suspension and variation notices**

**29.**—(1) A “suspension notice” means a notice published by the Secretary of State and notified to an affected country that suspends—

- (a) that country from the GSP under regulation 21(1)(a)(i);
- (b) an EF country from the EF, under regulation 18 or 19; or
- (c) the GSP rate on specified goods originating from a specified country, under regulation 21(1)(a)(ii).

(2) A suspension notice referred to in paragraph (1)(b) must apply the GF to the country suspended from the EF provided—

- (a) it is still an eligible developing country, but not a least developed country; and
- (b) that notice (or a different suspension notice) does not suspend the country from the GSP under regulation 21(1)(a)(i).

(3) A “variation notice” means a notice under regulation 21(1)(b) that varies the GSP rate on specified goods originating from a specified country for a specified period.

(4) The period of suspension or variation in a suspension or variation notice respectively must—

- (a) not exceed 12 months; and
- (b) not begin earlier than 28 days from the day starting with publication of the notice.

(5) Such notices must specify —

- (a) the regulation pursuant to which the notice has been published;
- (b) the country and where appropriate, the goods to which the suspension or variation applies;
- (c) the days on which the period of suspension or variation begin and end; and
- (d) in a case where the notice applies the GF to the country under paragraph (2), the fact that the GF will apply from the day that the EF is suspended.

(6) The publication of suspension or variation notice does not affect the right of the Secretary of State to make regulations at any time to—

- (a) withdraw a country from the GSP or a GSP framework;
- (b) withdraw GSP rates from GSP goods; or
- (c) vary GSP rates on specified GSP goods.

## PART 12

### Eligible developing countries

#### **Amendment of Schedule 3 to the Act**

**30.** Schedule 3 to the Act is amended as follows—

- (a) in Part 2 (least developed countries)—
  - (i) in the appropriate place, for “Burma”, substitute “Myanmar”; and
  - (ii) omit Equatorial Guinea; and
- (b) in Part 3 (other eligible countries)—
  - (i) in the appropriate place, add Algeria;
  - (ii) omit Guyana, Nauru, Samoa and Tonga; and
  - (iii) in the appropriate place, for “Swaziland”, substitute “Eswatini”.

Signed by authority of the Secretary of State for International Trade

At 3.25 p.m. on 15th December 2020

*Greg Hands*  
Minister of State for Trade Policy  
Department for International Trade