

EXPLANATORY MEMORANDUM TO
THE CUSTOMS (TARIFF QUOTAS) (EU EXIT) (AMENDMENT) (NO. 2)
REGULATIONS 2022

2022 No. 1283

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make amendments to the Customs (Tariff Quotas) (EU Exit) Regulations 2020 (S.I. 2020/1432) to adjust tariff quota volumes as a result of negotiations with Chile and China under Article XXVIII of the General Agreement on Tariffs and Trade 1994 (“GATT”). This includes adjustments to the quota volumes for duck (05.4265), garlic (05.4105), plywood (05.0013), sheep meat (05.1922, 05.2115 and 05.2116) and fruit juice (05.0093). This instrument also makes technical amendments to the regulations, in order to improve the legal clarity of the regulations with regards to:

- instances where two quota volumes are specified as applying at different times to a quota number,
- the application of allocation coefficients when deductions are made from quotas, and
- the formula for the annual increase to the Chile lamb quota.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is laid under the negative procedure and does not amend primary legislation, no statement is required.

6. Legislative context

6.1 Section 11 of the Taxation (Cross-border Trade) Act 2018 gives HM Treasury the power to make regulations which establish Tariff Rate Quotas (“TRQs”) for particular products, having had regard to any recommendation made by the Secretary of State. A TRQ allows a fixed volume of goods to be imported at zero duty or at a lower rate of duty than would be applied under the standard rate of import duty. Section 11 also gives powers to the Secretary of State to determine the licensing or allocation system

that goods subject to a quota will be subject to. In exercising its functions to make legislation under the powers in Part 1 of the Taxation (Cross-border Trade) Act 2018, both the Treasury and the Secretary of State have had regard to relevant international arrangements to which the Government is a party.

7. Policy background

What is being done and why?

- 7.1 The Customs (Tariff Quotas) (EU Exit) Regulations 2020 set out the legislative mechanism through which TRQs are established and administered.
- 7.2 In December 2018, the UK entered into negotiations and consultations with the appropriate World Trade Organisation (“WTO”) Members pursuant to Article XXVIII of the GATT with respect to its obligations concerning TRQs as set out in the UK’s Goods Schedule XIX.
- 7.3 Negotiations with Chile and China have resulted in agreement on some limited changes to the TRQ volumes set out in the UK’s Goods Schedule XIX, which need to be reflected in legislation – via an updated version of the relevant quota table (commonly referred to as the reference document) - before they can be implemented. These changes will be reflected in the updated reference document “Tariff Quotas, version 3.3” dated 5th December 2022.
- 7.4 The updated version of the quota table is amended to adjust the volume of four quotas, including duck, fruit juice, garlic, and plywood as a result of negotiations with China under Article XXVIII of the GATT. This includes adjustments to the quota volume for duck (05.4265) available to WTO members other than the European Union and Thailand, garlic (05.4105) available to China only, plywood (05.0013) which is open to all WTO members other than the European Union and fruit juice (05.0093) which is open to all WTO members other than the European Union. The EU are excluded from the UK's WTO TRQs as a result of commitments given within the Trade and Cooperation Agreement reached between the UK and EU.
- 7.5 The updated quota table is also amended to adjust the volume for one quota as a result of negotiations with Chile under Article XXVIII of the GATT. This adjustment is to a sheep meat quota (05.1922, 05.2115 and 05.2116) which is available to Chile only. The quota for sheep meat originating from Chile is comprised of a WTO commitment, as well as a portion agreed under the United Kingdom’s Free Trade Agreement (“FTA”) with Chile which are administered together under a single TRQ. As part of the UK’s FTA with Chile, an indefinite annual increase of 33,000 kg was agreed. The regulations are amended to improve legal clarity on the application of this annual increase in volume.
- 7.6 Allocation coefficients apply to certain sheep meat quotas to account for different cuts of meat products and to ensure the correct quantity is allocated against quota usage. The allocation coefficients are listed in column 1 of the quota table. The regulations have been amended to improve legal clarity on their application. The Customs (Tariff Quotas) (EU Exit) Regulations 2020 have also been amended to specify that where two quota volumes are set out in column 5 of the quota table, the first figure will be the quota volume which applies from the quota open date in 2022 until the following quota close date. This allows future changes to quota volume in the following quota period to be set out in the reference table in advance of the new quota period opening.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the UK from the European Union because withdrawal made it necessary for the UK to replace the EU's customs regime with a UK-specific customs regime.

9. Consolidation

9.1 This instrument does not consolidate any previous legislation.

10. Consultation outcome

10.1 No consultation on this instrument has taken place.

11. Guidance

11.1 Guidance on the customs tariff is currently available from HMRC. This guidance will continue to be published and available in its current format.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the effect of the Statutory Instrument is to maintain, as far as possible, the position prevailing currently i.e., access to a quota for the good in question.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to review the wider context of the customs tariff legislation.

14.2 The instrument does not include a statutory review clause because the instrument relates to a tax or duty and, in line with the Small Business, Enterprise and Employment Act 2015 meets the requirements for exemption.

15. Contact

15.1 Darren Stretton at the Department for Environment, Food and Rural Affairs, email: darren.stretton@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Catherine Stewart, Deputy Director for Trade Policy, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.