

EXPLANATORY MEMORANDUM TO
THE CUSTOMS TARIFF (PREFERENTIAL TRADE AND TARIFF QUOTAS) (EU EXIT) (AMENDMENT) REGULATIONS 2022

2022 No. 174

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument makes amendments to the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457) (“the Preferential Trade Arrangements Regulations”), the Customs (Tariff Quotas) (EU Exit) Regulations 2020 (S.I. 2020/1432) (“the Tariff Quotas Regulations”), and the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020 (S.I. 2020/1436) (“the Origin Regulations”). These Statutory Instruments were laid before the House of Commons on 16th December 2020 as part of a package of secondary legislation made under the Taxation (Cross-border Trade) Act 2018 (“TCTA”) which ensured that the United Kingdom (“UK”) had an independent customs regime in place at the end of the Implementation Period.
- 2.2 The purpose of the amendments made to the Preferential Trade Arrangements Regulations by this instrument are to make necessary updates to the preferential import duty rates, including the related Rules of Origin (“RoO”) requirements, in the Reference Documents associated with a number of the UK’s Preferential Trade Arrangements (“PTAs”), and to reflect the accession of Samoa and Solomon Islands to the Interim Economic Partnership between the United Kingdom of Great Britain and Northern Ireland and the Pacific States and the application by Peru and the Trade Agreement establishing an Association between the United Kingdom and the Andean Countries. The amendments being made by this instrument will ensure that the UK’s obligations under its PTAs with other countries or territories continue to be given effect to, so that goods imported as part of any such PTAs can access the correct rates of preferential import duty terms if they qualify to do so.
- 2.3 The purpose of the amendments to the Tariff Quotas Regulations is to increase the volume of the Autonomous Tariff Quota (“ATQ”) (05.2794) for shrimps and prawns, to clarify that quota volumes for three cheddar quotas (05.4515;05.4514; and 05.4513) are available on an annual basis and to correct errors to autonomous tariff quotas (05.4266 and 05.4267) for poultry to specify that the country of origin should be countries other than China and to reinstate the entry quota 05.4317 which has been deleted in error. This instrument also removes reference to spent provisions.
- 2.4 The purpose of the amendments made to the Origin Regulations is to make changes to the related RoO requirements, reflecting the changes to the classification of imported good following updates made by the World Customs Organization.

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 territorial 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 subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 9 of the TCTA gives HM Treasury powers to implement PTAs that Her Majesty's Government in the UK agrees with the government of a trading partner country.

6.2 Pursuant to such PTAs, the UK has agreed to apply a lower import duty rate (a "preferential tariff") than would otherwise be offered under the Most-Favoured-Nation ("MFN") rate. This latter rate (also known as the "UK Global Tariff" or standard rate of import duty) is the rate established by The Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430) as amended. The preferential tariff rate is only offered to goods that enter the UK after meeting all relevant terms set out in the PTA in question, including meeting specific RoO requirements.

6.3 Section 11 of the TCTA gives HM Treasury powers to establish Tariff Rate Quotas ("TRQs") to manage domestic imports into the UK. 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. A TRQ allows the UK to manage the volume of the goods that are imported into the country. Section 11 also gives powers to Secretary of State to determine the licensing or allocation system that goods subject to a quota will be subject to.

6.4 Section 17 of the TCTA gives powers to HM Treasury to make provisions by regulations that determine the place of origin of chargeable goods, including in relation to cases where the applicable rate of duty is determined pursuant to section 9 (in relation to PTAs) or section 10 (in relation to unilateral preferences offered to eligible developing countries).

7. Policy background

What is being done and why?

7.1 The TCTA gives primary powers for the UK to create its own customs regime, including a system of import duty rates, allowing import duty to be applied to chargeable goods entering the UK.

7.2 Import duties (or tariffs) are the taxes that an importer needs to pay when bringing goods into the UK. The UK Global Tariff sets out these non-preferential import duty rates, with product-specific commodity codes determining the rate applied to each

good. This provides the legal basis for conveying information that traders need to ensure the correct classification of goods being imported into the UK and is subject to variation over time.

- 7.3 The Preferential Trade Arrangements Regulations set out the legislative mechanism through which the UK implements the preferential tariffs and related RoO requirements that it has agreed with trading partners. The Preferential Trade Arrangements Regulations has been in force since the end of the Implementation Period, and it will continue to be updated as further PTAs are agreed or to account for some minor error corrections and to provide some simplifications of tariff tables where possible.
- 7.4 As part of the amendments to the Preferential Trade Arrangements Regulations 2020, the table in Schedule 1 is amended to account for the:
- Accession of the Independent State of Samoa, through an instrument of accession signed on 4 February 2022 and Solomon Islands, through an instrument of accession signed on 19 January 2022, to the Interim Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and the Pacific States. These changes will enter into force on 31 March 2022; and
 - Accession of the Republic of Peru to the Trade Agreement establishing an association between the United Kingdom of Great Britain and Northern Ireland and the Andean Countries. These changes will enter into force on 18 March 2022.
- 7.5 A new origin reference document (detailing the agreed ROO) and new preferential tariff reference document (detailing the preferential duty import rates which will be applied by the UK) will be published separately for each relevant PTA to account for these accessions.
- 7.6 Amendments to the Preferential Trade Arrangements Regulations are also made by this instrument to update references to Preferential Tariff reference documents associated with some of the PTAs listed in the table in Schedule 1 to that Regulation to account for formatting fixes, and to bring the commodity codes up to date where necessary. The new Preferential Tariff reference documents are:
- Iceland Preferential Tariff, version 1.2, dated 22 February 2022;
 - Israel Preferential Tariff, version 2.3, dated 22 February 2022;
 - Kosovo Preferential Tariff, version 2.3, dated 22 February 2022;
 - Norway Preferential Tariff, version 1.2, dated 22 February 2022;
 - Singapore Preferential Tariff, version 1.3, dated 22 February 2022; and
 - Viet Nam Preferential Tariff, version 1.3, dated 22 February 2022.
- 7.7 Amendments are also made to update references to three Origin Reference Documents which have been updated to remove outdated references to RoO provisions. These are:
- Central America Origin Reference Document, version 1.2, dated 22 February 2022;
 - Chile Origin Reference Document, version 1.2, dated 22 February 2022; and
 - Georgia Origin Reference Document, version 1.2, dated 22 February 2022.

- 7.8 One further change is made to the table in Schedule 1 to amend the title of the Origin Reference Documents and Preferential Tariff Reference Documents concerning the Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (“the Swiss PTA”) and the Additional Agreement between the United Kingdom of Great Britain and Northern Ireland, the Swiss Confederation and the Principality of Liechtenstein (“the Liechtenstein PTA”). The preferential tariffs contained in the Swiss PTA are applied to Liechtenstein through the Liechtenstein PTA. This change will ensure only one document covering the two countries is published. This will eliminate the risk of discrepancies associated with having two separate documents and avoid different tariffs being charged to the two countries.
- 7.9 The PTAs and reference documents as described in the table in Schedule 1 of the Preferential Trade Arrangements Regulations are available at:
<https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries> (for PTAs);
and
<https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-eu-exit-regulations-2020> (for reference documents).
- 7.10 The Tariff Quotas Regulations set out the legislative mechanism through which TRQs apply. The Regulations are amended to increase the volume to a shrimps and prawns ATQ, following the conclusion of the 2021 ATQ review which was announced on 21 December 2021. The regulations clarify the administrative arrangements for three cheddar quotas. Licences for these quotas are allocated subject to the presentation of an Inward Monitoring Arrangement certificate issued by relevant third countries. Consequently, the quota volume should be available for the entire quota period.
- 7.11 The Tariff Quotas Regulations currently provide for some poultry ATQs that were available to importers when the UK was an EU Member State. Although the quotas are not currently active (volumes are fixed at zero), an error in the eligible countries of origin has been identified. These regulations will correct these two errors. The regulations will also reinstate the entry for quota 05.4317 which had been deleted from the TRQ reference document in error. Finally, the regulations will also remove spent provisions relating to quota volumes from the statutory instrument and the reference document to improve transparency and application of the legislation.
- 7.12 Amendments of Schedule 1 to the Origin Regulations are made to reflect the introduction of new commodity codes by the World Customs Organization. The changes to Schedule 1 allow the goods under the new classification to continue trading with the same origin requirements.

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 required 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. This instrument updates the preferential tariffs and RoO requirements in PTAs that have, in some cases, undergone parliamentary scrutiny as part of the CRaG process (powers given to Parliament under the Constitutional Reform and Governance Act 2010).

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 A full Impact Assessment has not been prepared for this instrument because there is minimal or no impact expected for UK Businesses as a result of this instrument.

13. Regulating small business

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

13.2 Since the legislation maintains the existing position as far as possible, it minimises additional burdens on 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 Fiona MacConnacher at the Department for International Trade, email: Fiona.MacConnacher@trade.gov.uk can be contacted with any queries regarding the Preferential Trade Arrangements Regulations provisions in this instrument.

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

15.3 Melissa Williams at the Foreign, Commonwealth and Development Office, email: melissa.williams@fcdo.gov.uk can be contacted with any queries regarding the Trade Preference Scheme Regulations provisions in this instrument.

15.4 Tammy Reynolds, Deputy Director for Trade Policy, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.5 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.