

**EXPLANATORY MEMORANDUM TO**  
**THE CUSTOMS TARIFF (PREFERENTIAL TRADE ARRANGEMENTS) (EU**  
**EXIT) (AMENDMENT) REGULATIONS 2021**

**2021 No. 241**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument is a further amendment to The Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457). This instrument was laid on 16<sup>th</sup> December 2020 as part of a package of secondary legislation made under the Taxation (Cross-border Trade) Act 2018 which ensured that the United Kingdom (“UK”) had a properly functioning customs regime in place at the end of the Implementation Period.
- 2.2 An amending statutory instrument called The Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1657), which made amendments to S.I. 2020/1457, was laid on 31<sup>st</sup> December 2020 to implement further signed free trade arrangements entered into force between Her Majesty’s Government in the UK and the governments of other countries or territories, including that reached with the European Union (“EU”). These arrangements entered into force at the end of the Implementation Period.
- 2.3 The purpose of this instrument is to give effect to the preferential import duty rates, and the related Rules of Origin, from the UK’s trade arrangement with Ghana. Specifically, this instrument updates the table in Schedule 1 to The Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020. The amendments being introduced by this instrument are necessary to ensure that the UK’s obligations under trade arrangements are given effect in domestic law, so that goods imported as part of the trade arrangement with Ghana can access the agreed preferential import duty terms if they qualify to do so.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 The Department regrets that this instrument breaches the rule that statutory instruments subject to the negative procedure should normally be laid, and copies provided to the Committee, 21 days before the instrument comes into force (“the 21-day rule”). This instrument needs to enter into force on 5<sup>th</sup> March 2021 to restore duty free and quota free access for Ghana as soon as possible.
- 3.2 Negotiations on the Interim Trade Partnership Agreement between the UK and Ghana were not concluded by the end of the Implementation Period, therefore the agreement was one of a small number that did not come into effect on 1 January 2021. Although

some Ghanaian exports have been eligible for preferential tariff access to the UK under the UK's Generalised Scheme of Preferences, certain products have been facing higher tariffs since 1 January 2021. This is particularly true of Ghanaian bananas, which are exported to the UK in significant volumes. This product is currently being charged at the higher MFN tariff of £95/tonne. As a developing country, the Government believes this instrument must enter into force as soon as possible to restore duty free preferences for Ghanaian exporters and ensure no further adverse financial impact.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the whole of the UK.  
4.2 The territorial application of this instrument is the whole of the UK.

**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 Taxation (Cross-border Trade) Act 2018 ("TCTA") confers on HM Treasury powers to implement trade arrangements that Her Majesty's Government agrees with the government of a trading partner country.  
6.2 Pursuant to such arrangements, the UK has agreed to apply a lower import duty rate (a "preferential tariff") than would otherwise be offered to imports originating from those countries under the Most-Favoured-Nation ("MFN") rate. This rate (also known as the UK Global Tariff when applied to imports into the UK) is the rate established by the Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430). This preferential tariff is only offered to goods that enter the UK after meeting all relevant terms set out in the trade agreement in question, including the specific Rules of Origin.  
6.3 This instrument implements in domestic law the import duty obligations, including any relevant Rules of Origin, in the trade arrangement the UK has entered into with Ghana. Without this instrument, there would be nothing in domestic law to give effect to these obligations, putting the UK in breach of the terms of this international trade arrangement.

**7. Policy background**

***What is being done and why?***

- 7.1 The TCTA provides 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 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 that the correct classification of goods being imported into the UK.
- 7.3 The Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 is the legislative mechanism through which the UK implements the preferential tariffs and related Rules of Origin it has agreed. This instrument has been in force since the end of the Implementation Period, and it will continue to be updated as further preferential trade arrangements are agreed.
- 7.4 The following agreement is, by virtue of the amendments made by this instrument, added to the table of agreements in Schedule 1 to the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020, and substituted by the Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (Amendment) (EU Exit) Regulations 2020:

The Interim Trade Partnership Agreement with the **Republic of Ghana**, signed on 2<sup>nd</sup> March 2021.

- 7.5 An Origin Reference Document (detailing the agreed Rules of Origin) and Preferential Tariff Reference Document (detailing the preferential tariffs which will be applied by the UK) will be published separately for this agreement. These documents are described in the table in Schedule 1 of this instrument and are available at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>.

## **8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018. The relevant enabling powers are found in the TCTA. This instrument relates to the UK's withdrawal in so far as withdrawal requires the UK to replace the EU's customs regime with a UK-specific customs regime.

## **9. Consolidation**

- 9.1 No consolidation is required.

## **10. Consultation outcome**

- 10.1 No consultation on this instrument has taken place. This instrument introduces the preferential tariffs and Rules of Origin arrangements that have not yet undergone parliamentary scrutiny in accordance with 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 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 minimal to no impact is expected for UK businesses as 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 A statutory review clause is not included in these Regulations because the instrument relates to a tax or duty, and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

### **15. Contact**

- 15.1 Andreas Lendle at the Department for International Trade, phone: 020 7215 1691 and email: [andreas.lendle@trade.gov.uk](mailto:andreas.lendle@trade.gov.uk) can be contacted with any queries regarding this instrument.
- 15.2 Tammy Reynolds, Deputy Director of Trade Policy at HM Treasury, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.