

EXPLANATORY MEMORANDUM TO
THE TRADE REMEDIES (EXTENSION OF TARIFF RATE QUOTA) (EU EXIT)
REGULATIONS 2021

2021 No. 783

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 made under the Taxation (Cross-border Trade) Act 2018 (“TCBTA”), which sets out the framework for the United Kingdom’s trade remedies system. It allows the Secretary of State to make a public notice to apply tariff rate quotas on certain steel products.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 This instrument is subject to a negative resolution procedure and is not likely to be scheduled for debate.
- 3.2 The instrument comes into force before it is laid. Notification and explanation are being sent to the Speaker of the House of Commons on 30th June 2021.
- 3.3 The instrument does not observe the 21-day rule as it needs to come into force immediately on making. This is because it allows the Secretary of State to make a public notice applying tariff rate quotas to certain steel products. The current tariff rate quotas cease to have effect after 30th June 2021. This statutory instrument needs to come into force urgently to prevent them lapsing.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom. Trade remedies measures under the TCBTA would usually take the form of additional rate of import duty and are therefore a matter of reserved competence.
- 4.2 The territorial application of this instrument is 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 Current domestic legislation provides that a transitioned measure may only be varied, including by extension, by the Secretary of State accepting or rejecting the Trade Remedies Authority’s (“TRA”) recommendation. These regulations allow for the

Secretary of State to make a public notice applying the tariff rate quota on certain steel products in the absence of a recommendation from the TRA.

7. Policy background

What is being done and why?

- 7.1 At the point of the United Kingdom's exit from the European Union, the United Kingdom transitioned existing EU trade remedies measures of relevance to it, including the EU steel safeguard measure into the United Kingdom's domestic legal framework. This allowed the Secretary of State to continue to apply tariff rate quotas on certain steel products. By virtue of regulation 46(2) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 any measure which the Secretary of State has made and given effect to by a determination notice applies during the same time period as the EU measure. The tariff rate quotas (TRQs) on steel products will therefore expire on 30th June unless extended by variation.
- 7.2 The purpose of these regulations is to allow for TRQs on steel products to continue to apply. We anticipate this ongoing application will be for a limited period. During this time, the TRA will be able to reconsider the recommendation it has made that the steel safeguard measure on certain steel products should not be extended, if it receives an application for a reconsideration.

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 United Kingdom from the European Union because it is made in connection with and otherwise in consequence of the transition of EU measures into the United Kingdom's trade remedy system.

9. Consolidation

- 9.1 This instrument does not consolidate previous instruments.

10. Consultation outcome

- 10.1 The TRA is responsible for consultation as part of its review processes including for the transitioned steel safeguard measure. In addition, HM Government has held a series of meetings with our domestic steel sector to understand the impact of extending and revoking the measures for certain steel products.
- 10.2 The Secretary of State has consulted the TRA as required under sections 51(10) and 56(13) of the TCBTA.

11. Guidance

- 11.1 Not applicable.

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 As outlined in the Impact Assessment accompanying the TCBTA, the powers in the TCBTA on trade remedies relate to the imposition of duties, which fall under the

exemption for tax measures set out in the Small Business, Enterprise and Employment Act 2015. As such, they do not count as regulatory provisions and are out of scope of the Business Impact Target. The same applies to this instrument, so there is no requirement to complete an IA.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not add any specific regulatory burdens or small businesses that does not already exist.

14. Monitoring & review

- 14.1 These Regulations do not include a statutory review clause as they are made under the Secretary of State's power to make regulations relating to tax legislation and are therefore exempt from the requirements under Section 28(3) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Re Hobley, Deputy Director for Remedies and Constitutional Affairs, at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.
- 15.2 Ranil Jayawardena, Parliamentary Under Secretary of State at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.