

EXPLANATORY MEMORANDUM TO
THE CUSTOMS TARIFF (PREFERENTIAL TRADE ARRANGEMENTS)
(AMENDMENT) (NO. 2) REGULATIONS 2022

2022 No. 899

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade (“DIT”) 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 Preferential Trade Arrangements Regulations 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 in the reference document associated with the UK’s Preferential Trade Arrangement (“PTA”) with Japan and to update the reference documents associated with the UK’s PTA with Iceland, Liechtenstein, and Norway to account for the provisional application by Iceland of that PTA. 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, so that goods imported as part of any such PTAs can access the correct rates of preferential import duty 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 SCSi reported S.I. 2022/613, which was made under the same powers as this instrument, in its Fifth Report of Session 2022-23. This was due to the omission in the preamble to that instrument of a reference to the conditions in sections 11(7) and 28 of the TCTA. These conditions have been cited in this instrument.

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 available to goods that enter the UK after meeting all relevant terms set out in the PTA in question, including meeting specific Rules of Origin ("RoO") requirements.

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 have 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 provisional application by Iceland of the Free Trade Agreement between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland. These changes will enter into force on 1st September 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 this accession.
- 7.6 Amendments to the Preferential Trade Arrangements Regulations are also made by this instrument to update references to the Preferential Tariff reference document associated with the PTA between the UK and Japan to account for minor changes.
- 7.7 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).

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018. Withdrawal from the EU required the UK to replace the EU's customs regime with a UK-specific customs regime and therefore the Preferential Trade Arrangements Regulations were originally made in connection with EU withdrawal. However, the amendments made by this instrument are not directly connected to EU withdrawal.

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 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 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 import tariffs cannot be varied with the size of the importing business.

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 Oliver Exton at the Department for International Trade, email: oliver.exton@trade.gov.uk can be contacted with any queries regarding the Preferential Trade Arrangements Regulations provisions in 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 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.