

EXPLANATORY MEMORANDUM TO
THE CUSTOMS (TARIFF AND MISCELLANEOUS AMENDMENTS) (NO. 2)
REGULATIONS 2024

2024 No. 563

1. Introduction

1.1 This Explanatory Memorandum has been prepared by HM Treasury, the Department for Business and Trade, the Department for the Environment, Food and Rural Affairs and HM Revenue and Customs, and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Nigel Huddleston, Financial Secretary to the Treasury at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

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

3. Contact

3.1 Bruno Roberts-Dear at HM Treasury: Bruno.robertsdear@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

3.2 Ria Carter at the Department for Business and Trade: ria.carter@businessandtrade.gov.uk can be contacted with any queries regarding the UK Global Tariff (“UKGT”).

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

3.4 Matthew Bassett at HM Revenue and Customs: matthew.bassett@hmrc.gov.uk, can be contacted with any queries regarding the Authorised Use provisions in the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to subordinate legislation previously made under the Taxation (Cross-border Trade) Act 2018 (“TCTA”), which provided for the United Kingdom’s Customs, Value Added Tax (“VAT”) and Excise regimes to be in place after the end of the Transition Period following the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”).

4.2 This instrument updates a number of tariff reference documents. These are documents which detail the classifications and duty rates of goods that are included in the UK’s Integrated Tariff Schedule. Specifically, the reference documents updated in this instrument have been given legal effect by the following Regulations:

- The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (2018/1249)
- The Customs Tariff (Establishment) (EU Exit) Regulations 2020 (2020/1430)
- The Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (2020/1431)
- The Customs (Tariff Quotas) (EU Exit) Regulations 2020 (2020/1432)

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the UK.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the UK.

5. Policy Context

What is being done and why?

- 5.1 This instrument contains policy updates and technical updates to tariff legislation.
- 5.2 In terms of policy changes, this instrument makes amendments to the Customs (Tariff Quotas) (EU Exit) Regulations 2020 which sets out the legislative mechanism through which tariff rate quotas (“TRQ”s) are established and administered. Specifically, this instrument reduces the quota volume for the Manioc TRQ, which applies to imports from Indonesia, from 825,000 tonnes to 660,000 tonnes. It also reduces the quota volume for the Herring TRQ from 2,112 tonnes to 504 tonnes. The Herring TRQ applies to imports from all third countries, with the exception of EU member states. This is to reflect:
- Negotiations between the UK and Indonesia, which took place pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (“GATT”).
 - Negotiations between Norway and the EU to increase the EU volume of Herring by 1,608 tonnes. Due to the UK’s approach to maintaining existing levels of overall market access following the splitting of EU28 quotas, the UK will reduce its TRQ volume by a reciprocal amount to 504 tonnes.
- 5.3 These volume changes will be enacted through an updated version of the ‘Tariff Quotas’ reference document and will take effect from the start of the new quota periods on the 1st of January 2025 (for Manioc) and the 16 June 2024 (for Herring) respectively.
- 5.4 In terms of technical updates, this instrument makes amendments to the below reference documents.
- 5.5 The ‘Tariff Quotas’ reference document to improve consistency and clarity as follows:
- Two quotas whereby the products being imported have to undergo refining/processing, will be listed in a different location within the reference document to be alongside other quotas where there is also a requirement for refining/processing to take place after the goods are imported to the UK. This is to improve consistency and make the reference document easier to navigate. The raw cane sugar for refining quota (05.7713) will be moved from Part A to Section 1 of Part B and the cheese for processing quota (05.4522) will be moved from Section 1 of Part C to Section 2 of Part C of the Tariff Quotas reference document.

- Clarifying in this reference document that imports of beef from Canada under quota 05.4002 attract a quota rate of zero, as opposed to 20%, in line with the application of preferences agreed under the UK-Canada Trade Continuity Agreement, and which is already included in the UK-Canada Preferential Trade reference document.
- 5.6 The ‘Tariff of the United Kingdom’ reference document. This is to reflect two key changes:
- The rate of import duty is reduced on two commodity codes relating to aluminium road wheels from 4.5% to 4% and four commodity codes relating to certain continuous filament glass fibre products (“CGF”) from 7% to 6%. The reductions are to address inconsistencies identified by DBT, as the rates should have been subject to simplification when the UKGT was first introduced. The original UKGT policy intent was to simplify UKGT rates by rounding down rates to the nearest 2% band for rates under 20%.
 - Updates to the commodity code structure and descriptions to ensure the UK’s international trade policy can be delivered and avoid any unnecessary complications for businesses. Changes will also include amendments to legal notes contained within this reference document.
- 5.7 Finally, this instrument also updates two reference documents that implement the authorised use regime: ‘Authorised Use: Eligible Goods and Authorised uses’ and ‘Authorised Use: Eligible goods and rates’. This is to ensure the UK’s international trade policy can be delivered and avoid any unnecessary complications for businesses.

What was the previous policy, how is this different?

- 5.8 Paragraphs 5.1 to 5.7 set out the previous policy and the changes being made.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Section 11 of the TCTA gives HM Treasury the power to make regulations which establish TRQs for particular products. 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 TRQ will be subject to.
- 6.2 In considering what provision to include in regulations made under section 11 of the TCTA, HM Treasury has had regard to the recommendation made to them by the Secretary of State for the Department for Environment, Food and Rural Affairs in accordance with section 11(7) of the TCTA.
- 6.3 Section 8 of the TCTA gives HM Treasury the power to make regulations that establish and maintain in force the customs tariff. In considering the rate of import duty that ought to apply to goods in a standard case as defined under section 8(8) of the TCTA, HM Treasury has had regard to the matters set out in section 8(5) of the TCTA and the recommendation about the rate made to them by the Secretary of State for the Department of Business and Trade in accordance with section 8(6) of the TCTA.
- 6.4 This instrument amends the definition of “the authorised use document” set out in regulation 32(2) of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 from “Authorised Use: Eligible goods and authorised uses, version 2.11 dated 7th November 2023” to “version 2.14 dated 21st April 2024”. The

version number of this reference document is amended non-sequentially because, since this definition was last amended by the Customs (Tariff and Miscellaneous Amendments) (No.2) Regulations (S.I. 2023/1192), public notices published on 14 December 2023 and on 2nd February 2024 under section 32A(2) of the TCTA, have modified the relevant statutory reference to refer to new versions of that document. The new versions were version 2.12 dated 11th December 2023 and version 2.13 dated 31st January 2024. The version 2.14 that is given legal effect by this instrument includes the changes set out in paragraph 5.7 above.

- 6.5 This instrument amends the definition of “authorised use rates document” set out in regulation 20(4) of The Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 from “Authorised Use: Eligible goods and rates”, version 1.11”, dated 7th November 2023” to “version 1.14”, dated 25 April 2024”. The version number of this reference document is amended non-sequentially because, since this definition was last amended by the Customs (Tariff and Miscellaneous Amendments) (No.2) Regulations (S.I. 2023/1192), public notices published on 14 December 2023 and on 2nd February 2024 under section 32A(2) of TCTA, have modified the relevant statutory reference to refer to new versions of that document. The new versions were version 1.12 dated 11th December 2023 and version 1.13 dated 31st January 2024. The version 1.14 that is given legal effect by this instrument includes the changes set out in paragraph 5.7 above.
- 6.6 This instrument amends the definition of “Quota Table” in the “Tariff Quotas” reference document as set out in regulation 2(1) of The Customs (Tariff Quotas) (EU Exit) Regulations 2020 from “version 4.0” dated 12th April 2023 to “version 4.2” dated 23rd April 2024. The version number of this reference document is amended non-sequentially because, since this definition was last amended by the Customs Tariff (Preferential Trade Arrangements and Miscellaneous Amendments) Regulations 2023 (S.I. 2023/433), a public notice published on 19 June 2023 under section 32A(2) of the TCTA has modified the relevant statutory reference to refer to a new version of that document, version 4.1 dated 16 June 2023. The version 4.2 that is given legal effect by this instrument includes the changes set out in paragraphs 5.2 to 5.5 above.
- 6.7 This instrument amends the definition of “Tariff for the United Kingdom” document from version 1.17 dated 7th November 2023 to version 1.20 dated 23rd April 2024. The version number of this reference document is amended non-sequentially because, since this definition was last amended by the Customs (Tariff and Miscellaneous Amendments) (No. 2) Regulations 2023 (S.I. 2023/1192), public notices published on 14 December 2023 and 2 February 2024 under section 32A(2) of the TCTA modified the relevant reference to refer to new versions of that document. The new versions were version 1.18 and version 1.19. The version 1.20 that is given legal effect by this instrument includes the changes set out in paragraph 5.6 above.

Why was this approach taken to change the law?

- 6.8 This is the only possible approach to make the necessary tariff changes pursuant to the TCTA.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No consultation in relation to this instrument has been undertaken.

8. Applicable Guidance

- 8.1 Since the end of the Transition Period, the UKGT has applied to all goods imported into the UK unless an exception applies, such as a tariff quota, tariff relief or tariff suspension, the goods are imported from countries that have tariff-free access granted unilaterally, or as part of a preferential trading arrangement. Further guidance is available at <https://www.gov.uk/guidance/finding-commodity-codes-for-imports-or-exports>.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because it largely maintains the position of existing legislation which was covered by an overarching Tax Information and Impact Note: The UK's Integrated Tariff Schedule – GOV.UK (www.gov.uk).

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies.
- 9.3 There is no, or no significant, impact on the public sector.
- 9.4 The legislation applies to activities that are undertaken by small businesses.
- 9.5 No specific action is proposed to minimise regulatory burdens on small businesses.
- 9.6 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 importing businesses.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is in line with the government's general approach to tariff legislation, which is kept under review to ensure that it meets the policy objectives set out above in section 5 of this Explanatory Memorandum and ensure burdens on business are carefully monitored.
- 10.2 The instrument does not include a statutory review clause as the content relates to a tax or duty and therefore meets the requirements of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation

and Reform) Act 2023 (“relevant European Union Acts”). However, it does amend legislation that was itself related because withdrawal required the UK to replace the EU’s customs regime with a UK-specific customs regime.