EXPLANATORY MEMORANDUM TO

THE CUSTOMS (ADDITIONAL DUTY) (RUSSIA AND BELARUS) (AMENDMENT) REGULATIONS 2023

2023 No. 1203

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business & Trade (“DBT”) and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument is made under the Taxation (Cross-border Trade) Act 2018 ("the 2018 Act") and amends the Customs (Additional Duty) (Russia and Belarus) Regulations 2022 (“the 2022 Regulations”).

2.2 The purpose of the Customs (Additional Duty) (Russia and Belarus) (Amendment) Regulations 2022 is to increase import duty on further Russian and Belarusian goods in response to the invasion of Ukraine. This forms part of a wider response which includes sanctions on Russian and Belarusian individuals and businesses.

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 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 These regulations are made under sections 15 and 32 of the Taxation (Cross-border Trade) Act 2018 (‘‘the Act’’) and provide for the immediate increase in import duties on certain products imported into the United Kingdom originating from Russia or Belarus.

6.2 Section 15 of the Act provides that the Secretary of State may make regulations varying the amount of import duty applicable to certain goods where an issue has arisen between His Majesty’s Government and the government of another country or territory. In addition, His Majesty's Government considers (having regard to the matters set out in section 28 of the Act and any other relevant matters) it is appropriate to deal with the issue by varying the amount of import duty in the case of goods originating from Russia or from Belarus.

7. Policy background

What is being done and why?

7.1 The Act 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 importers need to pay when bringing goods into the UK. The UK's Most Favoured Nation ("MFN") tariff policy is set out in the UK Global Tariff ("UKGT"). This sets out the duties to countries trading with the UK on non-preferential terms which can be increased or decreased through other tariff policy measures, for example tariff suspensions or quotas which allow a certain amount of product to be imported at a lower duty rate.

7.3 The UK's intention is to increase tariffs on further goods originating in Russia and Belarus beyond the normally applicable rate, which comprises the MFN rate, and any other applicable tariff measures, such as tariff suspensions. Following the Russian invasion of Ukraine, the amount of duty normally applicable will be increased by 35 percentage points on a further package of products originating from Russia or Belarus imported into the UK.

7.4 To lessen the impact on UK traders who have already shipped goods originating in Russia and Belarus, but which have yet to reach the UK customs border, the 2022 Regulations contain a transitional provision. The effect of this is that the additional duty will not apply to specified goods originating from Russia and Belarus which were exported from those territories prior to the regulations coming into force. This provision continues to apply for this package of goods, meaning the exemption applies if the goods left Russian and Belarusian territories before the 4th December 2023.

7.5 Faced with the illegal invasion of a sovereign country, the UK is taking such measures to isolate Russia and Belarus from the global economy. These measures are part of a broader response which includes diplomatic pressure and financial sanctions against Russia and Belarus in respect of actions undermining the territorial integrity, sovereignty, and independence of Ukraine. Cross-government analysis, as well as business engagement, indicate the existence of alternative sources of supply on these further products, where low levels of imports from Russia were recorded in 2022. These products will now be subject to additional tariffs of 35 percentage points. The use of additional tariffs rather than import bans mitigates supply chain risks for UK businesses, by allowing for more scope for importers to adjust to changing conditions. When designing this policy, the Government looked at relevant considerations, including balancing the impacts on the UK economy against wider objectives.

7.6 The instrument gives effect to two updated reference documents that outline the additional charges on imported goods from Russia and Belarus, the documents will update: Russian Additional Duties Document, version 1.3, dated 7th December 2022; and Belarusian Additional Duties Document, version 1.3, dated 7th December 2022.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to the withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not consolidate any previous legislation.

10. Consultation outcome

10.1 No consultation has taken place for this instrument.

11. Guidance

11.1 Guidance is available here: https://www.gov.uk/guidance/additional-duties-on-goods-originating-in-russia-and-belarus#:~:text=remain%20under%20review.-,Background,be%20affected%20by%20additional%20duties

12. Impact

12.1 The impact on business, charities or voluntary bodies is broadly outlined in paragraphs 12.2 to 12.7.

12.2 This instrument imposes additional duties of 35 percentage points on UK imports of certain products originating from Russia and Belarus. The full list of products subject to these additional duties can be found in the accompanying reference documents. This additional duty applies to commodity codes contained in the UKGT. If a product has a tariff suspension or tariff quota, the additional duty will be added after the measure has been applied.

12.3 A cross government exercise led by His Majesty's Treasury and DBT looked at relevant considerations, such as possible impacts on consumers and producers before the policy was finalised.

12.4 According to His Majesty's Revenue and Customs data, in 2022, UK imports of this package of products from Russia and Belarus amounted to around £4.6m. The exact impacts on consumers and businesses will depend on a range of factors.

12.5 For example, importers will have several options including whether to switch to alternative sources of supply or reduce their consumption of these products. Alternatively, importers may absorb the increased cost or pass it on through higher prices.

12.6 There is no, or no significant, impact on the public sector.

12.7 A full Impact Assessment has not been prepared for this instrument because a broad outline of the impacts is set out in proportionate analysis in paragraphs 12.2 to12.7.

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 the impact 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 in the context of wider customs tariff legislation.

14.2 The Government will keep this instrument under review to ensure that it meets the policy objectives set out in section 6 of this Explanatory Memorandum, and to ensure burdens on businesses are carefully monitored.

14.3 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 exceptions set out in section 28(3)(c) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 The Tariff Implementation and Policy team at DBT. Email: tariff.implementation@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

15.2 Benedict Collins, Deputy Director for Tariffs, Implementation, Professions and Strategy at the Department for Business & Trade. Email: benedict.collins@businessandtrade.gov.uk can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nigel Huddleston MP, Minister of State at the Department for Business & Trade can confirm that this Explanatory Memorandum meets the required standard.