EXPLANATORY MEMORANDUM TO

THE CUSTOMS (ORIGIN OF CHARGEABLE GOODS: DEVELOPING COUNTRIES TRADING SCHEME) REGULATIONS 2023

2023 No. 557

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade on behalf of HM Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of The Customs (origin of chargeable goods: Developing Countries Trading Scheme) Regulations 2023 ("these Regulations") is to set out the rules for determining the origin of goods that enter the UK under the Developing Countries Trading Scheme (DCTS).

2.2 The DCTS is the UK's new unilateral preferences scheme. The DCTS will provide simpler and more generous trade arrangements for goods imported to the UK from developing countries in line with the government's International Development Strategy.

2.3 The scheme aims to support economic development and poverty reduction in developing countries whilst providing better trading opportunities and lower cost goods to UK businesses and consumers.

2.4 These Regulations underpin the Trade Preference Scheme (Developing Countries Trading Scheme) Regulations 2023 (SI 2023/561) and form part of legislation to be made under the Taxation (Cross-border Trade) Act 2018 (TCTA).

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 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 10 of the TCTA confers powers on the Secretary of State to make regulations to create a trade preference scheme for developing countries. Such a scheme can only apply to the "eligible developing countries" listed in Schedule 3 of the TCTA.

6.2 Under the DCTS, an importer may claim a lower rate of import duty than the applicable rate in a standard case under the Customs Tariff (Establishment) (EU Exit) Regulations 2020 regime, subject to various requirements of the scheme.

6.3 A key requirement is that the goods must be regarded as originating from a developing country to which the appropriate framework applies. Rules determining this are set out in these Regulations.

6.4 These Regulations revoke and replace The Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations (S.I. 2020/1436).

7. Policy background

What is being done and why?

7.1 The government is introducing the DCTS to improve access to the UK market for goods imported from eligible developing countries.

7.2 The principles guiding the design of the DCTS include making the new scheme simpler for partner countries and businesses to understand and use. This has led to provisions in the DCTS which reduce tariffs, liberalise Rules of Origin requirements and simplify the conditions attached to the scheme.

7.3 Based on current trade data, the DCTS offers tariff reductions of over £750 million per year for imports from 65 beneficiary countries.

7.4 Rules of Origin requirements allow the UK to ensure that the preferential access of the DCTS is granted only to developing countries that meet the origin criteria, and to prevent tariff circumvention.

7.5 For goods to qualify for the UK DCTS, certain origin conditions must be fulfilled, including:

(a) the goods must be regarded as wholly obtained from a beneficiary country, or

(b) where goods are obtained in two or more countries, processing rules must be followed as outlined in Regulation 8.

Product Specific Rules

7.6 Product Specific Rules outline what type of processing constitutes an important stage of manufacturing and the amount of non-originating content permitted in each chapter are outlined in Part 2 and 3 of Schedule 1.

7.7 Half of all goods chapters now allow up to 75% of non-originating content for Least Developed Countries (LDCs).

7.8 Instances that do not count as an important stage of manufacturing include things like preserving goods during transport, cleaning of goods and simple painting or polishing of goods.

7.9 The Secretary of State may, by written notice, grant a temporary derogation for specific goods from these Regulations if the conditions outlined in Regulation 16 are met.

Cumulation

7.10 This instrument also provides rules for cumulation which allows goods exported from one country to another to be regarded as originating from the last country in which

substantial processing of the goods has taken place, provided that the last partner is eligible.

7.11 This instrument continues to allow bilateral cumulation with goods from the British Islands, British Overseas Territories (except Gibraltar and the Sovereign Base Areas of Akrotiri and Dhekelia), the EU, Norway and Switzerland. Note this excludes chapters 1-24.

7.12 This instrument allows for intra-regional cumulation where countries may cumulate with other countries in their own regional group. The regional groups are outlined in Schedule 3.

7.13 This instrument allows for inter-regional cumulation where countries may cumulate with countries in another regional group subject to conditions.

7.14 These Regulations also allow more liberal extended cumulation rules for Least Developed Countries (LDCs). They allow LDCs to cumulate with a) all other DCTS countries, and b) countries that have Economic Partnership Agreements (EPAs) with the UK as listed in Schedule 4. This allows LDCs to cumulate with up to 95 partner countries.

7.15 Note that extended cumulation for LDCs only applies to products that would be duty free, quota free if traded directly from the third country to the UK. It also excludes goods from chapters 1-24.

Product Safeguards

7.16 The Secretary of State may publish a Product Specific Safeguard notice, varying the Product Specific Rules to goods of chapters 11 and heading 2309 in Part 2 of Schedule 1.

7.17 This would be in cases where imports risk harming domestic UK producers in the form of harm to UK market share, production, profitability, or employment in the UK.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 No consolidation is being done.

10. Consultation outcome

10.1 The government conducted an 8-week public consultation from 12:15am on 19 July to 11:45pm on 12 September 2021. As a result of this consultation the government received 300 responses. Respondents to the public consultation were self-categorised into the following 7 groups: individuals; NGOs; public sector (including devolved administration / local government organisation); businesses; business associations; other - international government; other - please specify.

10.2 On Rules of Origin, most respondents favoured increasing the permitted levels of non-originating content and expanding the provisions for cumulation for LDCs, in line with the policy direction indicated in the Statement of Direction. Opinions were more closely balanced between those favouring or opposing liberalisation of existing product specific rules (PSRs).

10.3 The full consultation report can be found here: https://www.gov.uk/government/consultations/designing-the-uk-trade-preferences-scheme-for-developing-nationsU

11. Guidance

11.1 A customs cooperation notice and goods graduation notice will be published on the date these Regulations come into force.

11.2 Further external guidance will be published on: Trading with developing nations - GOV.UK (www.gov.uk)

12. Impact

12.1 The impact on business, charities or voluntary bodies is to make it easier and cheaper to import goods from qualifying DCTS countries relative to the current UK GSP.

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 as the policy is covered by an overarching Tax Information and Impact Note for the UK's independent tariff policy: The UK's Integrated Tariff Schedule - GOV.UK (www.gov.uk).

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. However, this legislation liberalises further than the existing position as far as possible and imposes no significant additional burdens on small businesses. Therefore, no specific action is proposed to minimise the impact on small businesses, and no review clause is required.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that it will be monitored in the context of the wider customs tariff legislation. The government will keep this instrument under review to ensure that it meets the policy objectives set out in section 7 of this explanatory memorandum, and to ensure burdens on business are carefully monitored.

14.2 The government will continue to monitor issues related to customs cooperation, product specific safeguard measures, graduation in economic status and/or the development of bilateral trading relationships.

15. Contact

15.1 Simon Calvert, team leader of the DCTS team (email: simon.calvert@fcdo.gov.uk, or phone: 07469 121 661), can be contacted with any queries regarding the instrument.

15.2 Catherine Stewart, Deputy Director for Trade Policy at HM Treasury, catherine.stewart@hmtreasury.gov.uk, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Andrew Griffith MP, Economic Secretary to the Treasury and City Minister, can confirm that this Explanatory Memorandum meets the required standard.